

CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH

OA No. 332 of 2019

Present: Hon'ble Mr. Gokul Chandra Pati, Member (A)
Hon'ble Mr. Swarup Kumar Mishra, Member (J)

Shri Duryodhan Sahoo, aged about 49 years, S/o Late Narasingha Sahoo, Permanent resident of AT/PO ; Kalapathar, PS; Baideswar, Dist-Cuttack-754009, At present residing At- Plot No. 126/2260/5746, Near S.B.I, Khandagiri Branch, Khandagiri Square, Bhubaneswar – 751030.

.....Applicant.

VERSUS

1. Steel Authority of India Ltd., represented through the Chairman, New Delhi, ISPAT BHAWAN, LODI ROAD, NEW DELHI – 110003.
2. Chief Executive Officer, Steel Authority of India Ltd., Rourkela Steel Plant, Rourkela - 769011.

.....Respondents.

For the applicant : Mr. M. K. Pati, Advocate

For the respondents: Mr. S. D. DAS, Advocate

Heard & reserved on : 13.03.2020

Order on : 18.05.2020

O R D E R

Per Mr. Swarup Kumar Mishra, Member (J)

The applicant has prayed for the following reliefs under section 19 of the Administrative Tribunals Act, 1985:-

- (i) *To set aside/quash the order dtd. 22.11.2006 as at Annexure-A/2 and the order dtd. 02.06.2011 as at Annexure-A/3 and the Respondents are directed to grant all consequential service benefits and may be pleased to pass any other order and/or orders as may be deemed fit and proper in the facts and circumstances of the case.*

2. The brief case as averred by the applicant in the OA is that while serving as Senior Manager, Steel Melting Shop-II in Rourkela Steel Plant of Steel Authority of India Ltd, at Rourkela the applicant was given charge of eviction of unauthorised encroachment in Laxmi Market near Ispat General Hospital, Rourkela. During the course of eviction one Pabitra Mohan Sahoo made a complaint before CBI and accordingly TR No. 16 of 2007 was instituted before Ld. Special Judge (CBI), Bhubaneswar. Pending investigation, by CBI the applicant was put under suspension. Subsequently the Ld Special Judge (CBI) held the applicant guilty and awarded punishment. Hence Respondent No. 2 without waiting for the result of appeal filed by the applicant in High Court, imposed the punishment of removal from service on the applicant. Hon'ble High Court of Odisha in Criminal Appeal No. 165/2011 passed the judgment wherein the applicant was acquitted from all the charges and set aside the judgment of conviction and sentence passed by Ld Special Judge (CBI). Thereafter the applicant vide his representation dated 28.06.2018 and reminder dated 07.11.2018 Annexure A/5 series sought for his reinstatement in the job but the respondents have not responded. Hence this OA.

3. The respondents in their counter, inter alia averred that after receiving the representation dated 28.06.2018 from the applicant the respondents examined it and as per the information collected by the Vigilance Department it was ascertained that the CBI has preferred an appeal by way of SLP before Hon'ble Supreme Court of India and since the matter is pending for adjudication no decision has been taken by the Respondents to allow the applicant to be reinstated.

4. The applicant further averred in his rejoinder that he was removed from service solely on the basis of judgment of Learned Special Judge, CBI and not due to any departmental proceeding and hence he should have been reinstated due to his acquittal and setting aside of judgment of conviction delivered by Learned Special

Judge (CBI) by the Hon'ble High Court. He has also averred that the said SLP filed by CBI in Supreme Court has not been admitted. He has further mentioned that during the pendency of the current OA in this Tribunal he received one letter dated 15.11.2019 Annexure A/6 of rejoinder which was received by him on 23.11.2019 from respondents wherein the respondents have intimated him that with regards to his representation dated 28.06.2018 the respondents have decided to appoint him in Rourkela Steel Plant with a condition that he shall withdraw the present OA 332/2019 filed before this Tribunal. It is also mentioned in the said letter that he will be placed in the post of Assistant General Manager in E-5 Grade notionally w.e.f. 19.06.2018 and his seniority will be counted w.e.f said date and the period from 02.06.2011 (the day applicant was removed from service) to 18.06.2018 (day prior to order of acquittal passed by Hon'ble High Court) shall not be counted for any service benefits and shall be treated as break in service and the period of suspension i.e. 22.11.2006 to 11.11.2007 shall be treated "as such" and the applicant is only entitled for subsistence allowance as applicable.

5. Learned counsel for the respondents relied on the following citations:

1. Order of this Tribunal in O.A. no. 152/2015.
2. 2001 (I) SCC 121

6. Learned counsel for the applicant relied on the following citations and circular:

1. Yogendra Singh Verma vrs Union of India, Ministry of Finance & Another and
2. Circular No. 110 of PL-RR-3(8) dt. 11.07.1974 of Rourkela Steel Plant

7. During course of arguments it was further submitted by Learned Senior Counsel for the respondents that the conditions as mentioned in their letter dated 15.11.2019 which was filed as Annexure A/6 of the rejoinder shall not be insisted upon and the applicant need not give any undertaking as mentioned in the said letter.

8. In view of the said submission by Learned Counsel for the Respondents and in view of the further fact that the respondents have already decided to reinstate him, therefore, without going into merits of the case, this Tribunal directs that the respondents shall consider and pass necessary order regarding reinstatement of applicant in service within two months from the date of receipt of copy of this order and shall communicate the same to the applicant within the said period. After the applicant joins in the duty, the respondents shall consider his claim regarding consequential service benefits which he has made in this O.A. and also in his representation earlier submitted before the authorities. The said matter should be considered by the respondents within further period of two months from the date of joining of the applicant in service. The applicant is at liberty to submit any further documents in support of his claim before the authorities by making further representation, if any, after joining his duty.

9. The matter is accordingly disposed of with above direction, but in the circumstance without any order as to cost.

(SWARUP KUMAR MISHRA)
MEMBER (J)

(GOKUL CHANDRA PATI)
MEMBER (A)