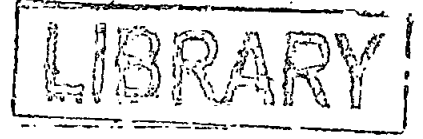


CENTRAL ADMINISTRATIVE TRIBUNAL
CALCUTTA BENCH
KOLKATA



OA. 350/1456/2014
OA. 350/1457/2014

Date of order: 07.09.2021

Present :Hon'ble Ms. Bidisha Banerjee, Judicial Member
Hon'ble Dr. Nandita Chatterjee, Administrative Member

Javvadi Lakshmana Rao @ J. L. Rao, son of Sri J. G. Achari, aged about 41 years, by occupation: service holder, working as Junior Steno to the FA & CAO (Con/Garden Reach, South Eastern Railway, Residing at C/o. J.V. Rao, Flat No. 2C, 31, Ram Kumar Ganguly Lane, (Landmark-Charmandir) P.O. Botanical Garden, Dist- Howrah- 711103.

.....Applicant.

1. The Union of India, through the General Manager, South Eastern Railway, 11, Garden Reach Road, Kolkata- 700 043.
2. The FA & CAO (CON), South Eastern Railway, 11, Garden Reach Road, Kolkata- 700 043.
3. The Senior Accounts Officer (G), South Eastern Railway, 11, Garden Reach Road, Kolkata- 700 043.
4. The Dy. F.A. & CAO©/II South Eastern Railway, 11, Garden Reach Road, Kolkata- 700 043.
5. The Sr. AFA/CON/II, South Eastern Railway, Garden Reach, being the Disciplinary Authority having his office at 11A, Garden Reach Road, Calcutta- 700 043.
6. The AFA/CON/III/GRC, being the Inquiry Officer, having his office at 11A, Garden Reach Road, Calcutta- 700 043.

.....Respondents.



For the Applicant : Mr. K. Chakraborty, Counsel

For the Respondents : Mr. A. Mitra, Counsel

ORDER (Oral)

Per Ms. Bidisha Banerjee, JM:

Heard Id. Counsel for both sides.

2. Ld. Counsel for applicant places before us an order passed by the Hon'ble High Court in WPCT. No. 571/2006 dated 24.04.2013 where the Hon'ble High Court has passed the following orders:

".....We do not find that the Tribunal has erred in allowing the application filed by the petitioners and directing that a fresh enquiry should be initiated against the Respondent in terms of the aforesaid Rules.

When this petition was admitted by this Court, the order of the Tribunal was stayed. However, the petitioners were directed to continue to pay subsistence allowance to the Respondent. In these circumstances, we direct that the enquiry, if any, be conducted and completed against the Respondent within four months from today. Failure to complete the enquiry within the stipulated time will mean that the Respondent will be entitled to full wages thereafter.

This application is disposed of accordingly with no order as to costs."

3. Ld. Counsel for applicant alleges that the respondents have failed to comply with the direction of the Hon'ble High Court in completing the enquiry proceeding within the period of four months and therefore they cannot be allowed to pass any final order beyond the said four months.

4. We have gone through the order passed by the Hon'ble High Court. The decision of the Hon'ble High Court does not mention that failure to conclude the proceedings within four months would forfeit the right of the respondents to conclude the enquiry with a final order, or that the proceedings would abate. Hence, we are of the considered opinion that the Hon'ble High Court has simply allowed the respondents to complete the proceedings within a period 4 months, failing which the respondent i.e. the



present applicant, would be entitled to full wages. Thereafter, this Tribunal had also directed the authorities to conclude the proceedings but pay wages in full beyond the said date, if the order dated 24.04.2013 was not already complied with. We have perused the order dated 05.09.2014 in CPAN No. 1895 of 2013 where the following order has been passed by the Hon'ble High Court:

"By the order dated 24th April, 2013 passed by a Division Bench of this Court, to which one of us (Mhatre, J.) was a party, the Respondents were directed to complete the enquiry proceedings against the Petitioner within four months from the date of the order. It appears that the Respondents here have completed the enquiry, although belatedly, on 13th January, 2014. The enquiry report has been served on the Petitioner.

It further appears that no consequential order has been passed as yet by the Respondents. However, in the order dated 24th April, 2013 the Court had mentioned that failure to complete the enquiry within the stipulated time would entail the payment of full wages to the employee. If full wages are not being paid despite the failure of completion of the enquiry within the stipulated time, the Petitioner has recourse before the Administrative Tribunal. We do not, therefore, propose to take any action in respect of this Contempt Petition.

Hence, the Contempt Petition being CPAN No. 1895 of 2013 is dismissed."

5. Ld. Counsel for respondents submits that an ex parte final order in departmental proceedings has been passed as the applicant has failed to cooperate with the Inquiry Officer. Let the said order be communicated to the applicant.

6. However, we direct the respondents to release the arrears of wages/salary, in accordance with the decision of the Hon'ble High Court within 4 weeks from the date of receipt of a copy of this order.

7. Written note of arguments filed by the respondents is taken on record.

8. Accordingly, both the OAs stands disposed of. No costs.

(Dr. Nandita Chatterjee)
Member (A)

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(Bidisha Banerjee)
Member (J)

