

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: CUTTACK BENCH

Original Application No. 752 of 1994

Cuttack this the 20th day of March, 1996

E.K.S. Nair

...

Applicant(s)

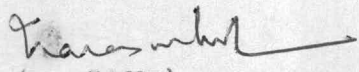
Versus

Union of India & Others ...

Respondent (s)

(FOR INSTRUCTIONS)

1. Whether it be referred to reporters or not ? Yes
2. Whether it be circulated to all the Benches of the Central Administrative Tribunal or not ? Yes.


(N. SAHU)
MEMBER (ADMINISTRATIVE)


(D.P. HIREMATH)
VICE-CHAIRMAN

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C O R A M:

THE HONOURABLE MR. JUSTICE D.P. HIREMATH, VICE-CHAIRMAN

AND

THE HONOURABLE MR. N. SAHU, MEMBER (ADMINISTRATIVE)

...

E.K.S.Nair, aged 54 years,
S/o. Late E.R.K.Nair, Chief
Permanent Way Inspector,
South Eastern Railway,
At/PO/Town: Cuttack

...

Applicant

By the Advocate: M/s. Y. Mohanty
P.C. Biswal
B.N. Mohanty

Versus

1. Union of India, represented through
the General Manager, S.E. Railway,
Garden Reach, Calcutta-43
2. Senior Divisional Personnel Officer,
S.E. Railway, Khurda Road, At/PO: Jatni
Dist: Khurda
3. Senior DEN (Co-Ord) S.E. Railway,
Khurda Road,
At/PO: Jatni, Dist: Khurda
4. Mr. P.K. Kshatriya
DEN (North) S.E. Railway,
Khurda Road, At/PO: Jatni,
Dist: Khurda
5. Amar Singh
P.W.I., S.E. Railway,
At/PO/Town: Cuttack

...

Respondents

By the Advocate: Mr. D.N. Mishra,
Standing Counsel
(Railway Administration)

...

O R D E R

D.P. HIREMATH, VICE-CHAIRMAN: Heard both the learned counsels.

A case of victimisation is made by the petitioner, who was placed under suspension by the order of the District Engineer(North) without assigning any reason and on the score of the contemplated enquiry. ~~Both~~ the suspension order^{was}~~s~~ were made as far back as on 17.12.1994 and implemented soon after it was made. Till to-day no charge-sheet has been served nor the same has been revoked as it should have been done after the expiry of six months unless there is a valid ground to continue it. In this Original Application, the petitioner has contended that he is a Diploma Civil Engineer, who joined South Eastern Railway as an apprentice Assistant Permanent Way Inspector (A.P.W.I.) on 5.2.1963 and he appeared for certain examination to qualify himself for promotion to the higher post. His results were not declared, and therefore, he approached this Tribunal in Original Application No. 404 of 1990 (O.A.434/90 stated in para 2.(c) of the petition appears to be a mistake) and the Tribunal, while disposing of that Original Application directed that the results should be published and further action taken in pursuance of such result. According to petitioner's counsel, the petitioner did qualify himself by passing the examination and when the respondents did not give

him promotion in pursuance of the results, a Contempt Petition has been filed against the concerned respondent. That apart, it is his case now that because he approached this Tribunal from time to time to redress his grievance, he is being victimised and without assigning any reason and without disclosing what charge he has to face, he has been kept under suspension indefinitely.

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2. In our considered view, victimisation is very apparent from the facts narrated above and it is rather surprising and deplorable that for this length of time though he is under suspension the minimum that was required of the concerned respondents, ^{was} ~~was~~, to issue a charge-sheet to the applicant. Rules do not permit continuation of suspension beyond six months unless there is a valid ground to continue the same. In our considered view, the suspension order cannot be allowed to continue any longer in view of the difficulties that the petitioner is facing and in view of ~~this~~ his promotion ^{being} ~~has been~~ withheld. When this question was put ^{to} ~~learned~~ counsel for the Railways Shri D.N. Mishra, we found him unable to support the order of suspension, but sought time to take instructions from the concerned respondents. We find no valid grounds to grant further time as the concerned respondents ^{have} ~~shall~~ not bothered to instruct the

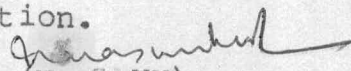
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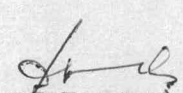
counsel even when the petitioner is facing a serious situation affecting his service, viz., suspension from 17.12.1994.

It may be mentioned here that as far back as on 4.4.1995, the respondents were called upon to show-cause why the order of suspension should not be set aside within one week and for nearly one year, it is rather surprising that respondents have not bothered to give suitable instructions to their counsel. That clearly speaks of intention of the concerned respondents. The suspension order cannot be permitted to continue any longer. Accordingly, the order of suspension vide Annexure-4 is set aside and the petitioner shall be reinstated ^{to} service forthwith and ^{he shall be given} ~~by giving~~ all the monetary benefits due to him within sixty days from the date of receipt of this order.

3. The other part of the prayer does not deserve to receive any consideration in our hands. Accordingly the same ^{is} rejected. No costs.

Shri B.S.Tripathy, learned counsel for Respondent No.5 also heard while disposing of this application.


(N. SAHU)
MEMBER (ADMINISTRATIVE)


(D.P. HIREMATH)
VICE-CHAIRMAN

B.K.Sahoo//