

CENTRAL ADMINISTRATIVE TRIBUNAL

CUTTACK BENCH, CUTTACK.

ORIGINAL APPLICATION NO. 5680F 1995
Cuttack, this the 1st day of February, 2002

Benudhar Pahi

Applicant

Vrs.

Union of India and others ...

Respondents

FOR INSTRUCTIONS

1. Whether it be referred to the Reporters or not? *Yes*
2. Whether it be circulated to all the Benches of the Central Administrative Tribunal or not? *No*

~~(M.R.MOHANTY)~~
MEMBER (JUDICIAL)

S. J. S.
(SOMNATH SOM)
VICE-CHAIRMAN

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CENTRAL ADMINISTRATIVE TRIBUNAL,
CUTTACK BENCH, CUTTACK.

ORIINAL APPLICATION NO. 568 OF 1995
Cuttack, this the 1st day February, 2002.

CORAM:

HON'BLE SHRI SOMNATH SOM, VICE-CHAIRMAN
AND
HON'BLE SHRI M.R.MOHANTY, MEMBER(JUDICIAL)

.....
Benudhar Pahi, son of Baisnab Pahi, Villae/PO-Jakhapura,
Dist.Jajpur
Applicant

Advocates for applicant - M/s A.K.Mohapatra
G.C.Patnaik
R.C.Sahoo

Vrs.



1. Union of India, represented by the General Manager, S.E.Railway, Garden Rach, Calcutta-43.

2. Divisional Railway Manager, South Eastern Railway, At/PO-Jatni, Dist. Khurda.

3. Divisional Personnel Officer, South Eastern Railway, At/PO-Jatni, Khurda.

4. Divisional Engineer (N), S.E.Railway, At/PO-Jatni, District-Khurda.

5. Assistant Engineer (N.), S.E.Railway, At/PO/Dist.Cuttack.

6. Permanent Way Inspector, S.E.Railway, At/PO-Jajpur Road, Dist.Jajpur.

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Respondents

Advocate for respondents - Mr.Ashok Mohanty

O R D E R
(ORAL)

SOMNATH SOM, VICE-CHAIRMAN

S.J.M In this O.A. the petitioner has prayed for quashing the order dated 19.12.1994 at Annexure-1 terminating the service of Alekh Prasad Pahi in the following words:

"It was decided by Hon'ble CAT/CTC

in the above case that late Alekha Prasad Pahi has expired in 17.12.79. Sri Benudhar Pahi has entered into the Rly. service falsely personifying as Alekha Prasad Pahi and is continuing under PWI/JJKR as Gangman.

Hence, the services of Alekha Ch.Pahi alias Benudhar Pahi (the imposter) Gangman under PWI/JJKR is terminated with immediate effect as per Est.Srl.No.113/93. The receipt of this notice may please be acknowledged in presence of two witnesses of your staff and serve the same to the party Sri Benudhar Pahi alias Alekha Prasad Pahi and advise him to hand over the Rly. Qrs., Rly. materials if any in his possession to PWI/JJKR immediately."

He has also prayed for a direction to the respondents to pay all arrear salary from the date of termination within a stipulated period. The third prayer is for a direction to the respondents to carry out direction issued by the Tribunal in OA No. 501 of 1990. The respondents have filed counter opposing the prayers of the applicants. No rejoinder has been filed. We have perused the pleadings.

2. For the purpose of considering the prayers of the applicant, it is not necessary to go into too many facts of this case. The admitted position is that OA No. 501 of 1990 was filed before the Tribunal by one Khulana Pahi, the widow of late Alekha Prasad Pahi. In that O.A. the present applicant was respondent no.6. The grievance of the petitioner in OA No.501 of 1990 was that her husband was working as Gangman under the Railways and after death of her husband, respondent no.6 in that case, the present petitioner before us, who was the elder brother of the applicant's husband, utilised the Casual Labour Card of the husband of the petitioner and worked in the Railways showing himself to be one Alekha Prasad Pahi even though his actual name was

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Benudhar Pahi and he was elder brother of deceased Railway employee Alekha Prasad Pahi. In that case the Tribunal recorded the statements of both the petitioner and respondent no.6 before them as also some other persons and came to the following finding:

"Taking into account the totality of the circumstances mentioned above and the cumulative effect of the entire evidence discussed above, I have absolutely no doubt in my mind to hold that the petitioner Smt. Khulana Pahi is the widow of Alekha Pahi who was working as a Gangman under the P.W.I, Jajpur and after his death Opposite Party No.6 namely Benudhar Pahi has falsely personified himself as Alekha Pahi and has been working by misutilising the identity card issued in favour of Alekha Pahi....."



The Tribunal, however, did not direct termination of the service of respondent no.6 who was working in the name of Alekha Prasad Pahi who had died long ago and left it to the Railway administration to take a view. In pursuance of that the Railway Administration has issued the order of termination at Annexure-1 of the present O.A. The Tribunal had also directed in the earlier case to consider appointment of Khulana Pahi, the applicant in OA No.501 of 1990 and in the meantime the Railway authorities have considered and given compassionate appointment to Khulana Pahi. The applicant has challenged the order at Annexure-1 on two grounds. The first ground urged by him is that the Tribunal in their order dated 18.1.1994 disposing of OA No. 501 of 1990 did not order for termination of service of the applicant and therefore, the respondents should not have done so. We are unable to accept this proposition because the Tribunal specifically left the matter to be

S. J. M.

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(8)

decided by the Railway authorities and therefore, it cannot be said that the order at Annexure-1 issued by the Railway authorities is violative of the order of the Tribunal. Strictly speaking this is also not an order of termination of service of the applicant because the applicant is one Benudhar Pahi and the person who was under the employment of the Railways was one Alekha Prasad Pahi, her younger brother and he has died in the meantime. This contention of the applicant is, therefore, held to be without any merit and is rejected.

3. The second contention of the petitioner in paragraph 4 (vii) of the O.A. is that before issuing the order of termination of service, no opportunity of showing cause was given to the petitioner. In view of this, it has been urged that the order at Annexure-1 is liable to be quashed. We find that the Tribunal had earlier come to a finding that the person who was employed under the Railways was one Alekha Prasad Pahi and the present applicant before us, who was respondent no.6 before the Tribunal in the earlier O.A., was one Benudhar Pahi and Alekha Prasad Pahi has died long since. Therefore, Benudhar Pahi, the present applicant had never been employed by the Railways. He was masquerading as Alekha Prasad Pahi and by terminating the services of Alekha Prasad Pahi, the respondents cannot be said to have terminated the services of Benudhar Pahi who had never been in the employment of the Railways. Moreover, for issuing such an order of termination as in this case showcause notice is not

J. J. M.



necessary. Moreover, we find that in this case the present applicant, who was respondent no.6 in OA No.501 of 1990 had full opportunity of presenting his case before the Tribunal in the earlier O.A. He himself was examined and findings were recorded against him. In view of this, we hold that the requirement of natural justice, which is not really involved in the present case, has also been complied with.

4. In the result, therefore, we hold that the O.A. is without any merit and the same is rejected.

No costs.

Canorajan Mohanty
(M.R.MOHANTY)

MEMBER (JUDICIAL)

Somnath Sora
(SOMNATH SORA)

VICE-CHAIRMAN
10.2.2002

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