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O.A. No. 172/08

ORDER DATED 25th JUNE, 2008

Coram:

Hon'ble Mr. Justice K. Thankappan, Member (J)

Hon'ble Mr. C.R. Mohapatra, Member (A)

Heard Mr. C.R. Nandy, Ld. Counsel for the applicant and Mr. S.K. Ojha, Ld. Standing Counsel for the Railways. In this O.A. the applicant challenges the orders dt.28.02.08 and 29.02.08 under Annexures-6 & 7. Vide Annexures-6 & 7 the claim for re-instatement of the applicant during the inquiry has been rejected by the authorities. An additional prayer has also been made by the Ld. Counsel that he shall be given subsistence allowances during the pendency of the proceedings

2. Admittedly, the applicant was removed from service on a serious charge of receiving bribe of Rs.100/- and on inquiry that charge was established against him. However, the said order was challenged before this Tribunal. This Tribunal having confirmed the orders of the disciplinary and appellate authority, the matter was carried to the Hon'ble High Court of Orissa. By judgement dated. 11.10.07 in OJC NO.2948 of 2001, the Hon'ble High Court, after considering the matter and passed the following order:-

“ In the result, the writ petition is allowed in part. The impugned order passed by the Tribunal, the departmental proceeding conducted from 29.12.1997 and the order of removal as well as the appellate order are quashed. It will be open to the opposite parties to conduct de novo enquiry as directed above after providing opportunity to the petitioner to defend himself

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in accordance with the rules. However, if the proceeding is not started within a period of three months from the date of production of a copy of this order, the petitioner shall be entitled to reinstatement with all consequential service benefits."

3. On the basis of the direction given by the High Court of Orissa the inquiry is being conducted within the time stipulated and this Tribunal is informed by the Counsel appearing for the Respondent that final direction would be taken as early as possible, provided the applicant cooperates.

4. At this stage the applicant submits that Annexure-A/6 and A/7 may be quashed. It is also prayed that the applicant may be re-instated by invoking the provisions of the General Rules regarding the suspended employee. The Counsel also cited some judgement of the Apex Court including AIR.

5. We have heard the Counsel appearing for either ~~of the~~ sides. The Counsel appearing for the Respondents submits that the High Court had not ordered any reinstatement of the applicant. This Tribunal, at this stage, has no locus standi to give any order as prayed for by the applicant.

6. In the above circumstances, we are of the view that the applicant has not made out any case to be interfered by us in this matter, apart from the fact that the applicant was suspended on a serious charge of receiving bribe. We are not inclined to interfere in

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the matter at this stage. The applicant is also not entitled to any relief at this stage. We are further of the view that so far as the applicant's prayer for the subsistence allowances during the pendency of this case is concerned he has to file such application before the competent authority.

7. In the above observation and direction this O.A. stands dismissed. However, we are of the view that as the applicant having not approached the High Court at the right time, it is not proper for him to waste the time of the Tribunal. In the above circumstances, the O.A. stands dismissed as above. However, there is no order for costs.

Member(A)

L. Kappan
MEMBER (J)