

**CENTRAL ADMINISTRATIVE TRIBUNAL
LUCKNOW BENCH**

Original Application No.182/2005
Lucknow, this the day of 26 May 2005.

HON'BLE SHRI S.P. ARYA, MEMBER (A)
HON'BLE SHRI K.B.S. RAJAN, MEMBER (I)

Bikramaditya Sahu, aged about 38 years, S/o Sri S.K. Sahu
R/o 4, Sheetla square Colony, Mehendiganj, Lucknow.

...Applicants.

By Advocate: Shri Alok Trivadi.

Versus.

9. Union of India through the General Manager,
Northern Railway, Baroda House, New Delhi.
10. The Divisional Railway Manager, Northern Railay,
Hazratganj, Lucknow.
11. The Sr. Divisional Mechanical Engineer, Northern
Railway, Hazratganj, Lucknow.
12. The Asstt. Divisional Mechanical Engineer (Power),
Northern Railway, Hazratganj, Lucknow.

...Respondents.

By Advocate: Shri Ajmal Khan.

ORDER

BY SHRI K.B.S. RAJAN, MEMBER (I)

1. This is the second ground of litigation. In the earlier litigation, vide order date 17.10.2003, this Tribunal has quashed the order of cancellation of appointment/termination of the services of the applicants, on the ground that the



services could not be terminated save in accordance with the rules/process of law. Six weeks time was granted to the respondents to issue show cause notice to the applicant and on receipt of reply thereto decision should be taken within 6 weeks thereafter.

2. In the wake of above order, the respondents had issued a show cause notice to the applicants and in reply thereof the applicant has sought for certain documents. It is the case of the applicant that without making available copies of such documents the impugned order dated 26.07.2004, confirming the termination of service of the applicant was passed. Hence this O.A.

3. Counsel for the applicant assails the impugned order on the following twin grounds.

(a). When the Tribunal has prescribed some time limit for issue of show cause, in accordance with the judgment of the High Court reported in 1999 (17) LCD-24, the direction issued by the High Court or Hon'ble Supreme Court in its decision carry equal importance as that of a Statute or Rules. As such, it is contended that beyond the period prescribed of issue of show cause notice, the respondents cannot issue such show cause notice and in the instant case there is an inordinate delay of four months.

(b) When the respondents were asked to provide the requisite documents relying upon by them, the

2

same were not made available and as such there is infraction of Principle of Natural justice.

4. We have considered the case. In so far limitation is concerned, we do not agree with the contention of the learned counsel for the applicant. In the order dated 17.10.2003, true, certain time limit was stipulated both for issue of show cause notice and also for consideration of representation against the show cause notice. And, the earlier order of termination was quashed and the individuals were treated to be on suspension. As such, the longer the time taken by the respondents to issue the show cause notice, the merrier to the applicants by way of getting the subsistence allowance till then. The delay in issue of show cause notice thus has not prejudicially affected the applicants. Further, the delay cannot be said to be "inordinate" as claimed. Such a delay could easily be pardoned. As such, the contention of that the show cause notice was issued with inordinate delay and the same vitiate the proceedings has no merit. As regard ^{b)} to above, in an identical case. (O.A. No.209/2005 Dinesh Kumar Vs. U.O.I. & Others this Tribunal, relying upon the observations of the Apex Court in State of U.P. Vs. Ramesh Chandra Mangalik, AIR 2002 (SC) 1241 passed the following orders.

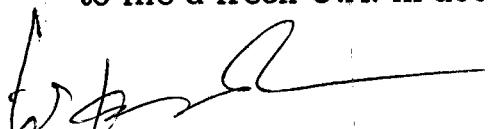
" In the result, for the foregoing reasons, without quashing the order of termination, in the event the applicant prefers a representation to the respondents stating the relevancy of the documents not furnished to him and prejudice caused thereafter, the respondents shall, on receipt of such a representation, dispose of the same by passing a speaking and reasoned order within a period of two months from the date of



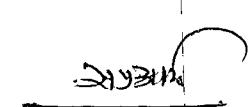
receipt of a certified copy of this order. In the event, the applicant remains aggrieved; it shall be open for him to revive the present O.A., which is accordingly disposed of. No costs."

4. We are of the considered view that ends of justice could be adequately met, if this O.A. is also disposed of in terms of aforesaid order referred to above.

5. Consequently, keeping intact the order of termination, it is directed that in the event the applicant prefers a representation to the respondents stating the relevancy of the documents not furnished to him which has caused prejudice to him, the respondents shall, on receipt of such representation, dispose of the same, by passing a speaking and reasoned order within a period of two months from the date of receipt of a certified copy of this order together with representation. In case, the applicant shall have any grievance in the final decision taken by the respondents in respect of the representation, it shall be open to the applicant to file a fresh O.A. in accordance with law. No costs.



(K.B.S. RAJAN)
MEMBER (J)


S.P. ARYA

(S.P. ARYA)
MEMBER (A)

AK/.