

CENTRAL ADMINISTRATIVE TRIBUNAL

PATNA BENCH, P A T N AO.A.NO.: 826 OF 2005[Patna, this Monday, the 27th Day of February, 2006].

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C O R A M

HON'BLE SHRI JUSTICE P.K.SINHA, VICE-CHAIRMAN.

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Mannangatti Ramakrishnan, son of Shri P. Mannangatti, resident of mohalla -A/84 Police Colony, Anisabad, P.O.: Anisabad, Patna – 2, at present posted on the post of Assistant Director [Rehabilitation], Vocational Rehabilitation Centre for Handicapped, Patna.APPLICANT.

By Advocate :- Shri Pradeep Kumar.

Vs.

1. The Union of India through the Secretary, Govt. of India, Ministry of Labour and Employment [Directorate General of Employment & Training], New Delhi.

2. The Joint Secretary/Director General of Employment & Training, Ministry of Labour and Employment [Directorate General of Employment & Training], New Delhi.

3. The Under Secretary, Ministry of Labour and Employment [Directorate General of Employment & Training], New Delhi.

4. The Director, Adm. II, Directorate General of Employment & Training, Ministry of Labour and Employment, Govt. of India, Shram Shakti Bhavan, Rafi Marg, New Delhi.RESPONDENTS.

By Advocate :- Shri S.K.Tiwary, ASC.

O R D E R

Justice P. K. Sinha, V.C.:- This matter usually is to be placed before a Division Bench. However, a Division Bench not being available in this Bench since quite some time, on 22.02.2006 the learned counsel for the applicant as well the learned counsel for the respondents requested the Tribunal to dispose of this matter by a Single Member Bench and, accordingly, this matter has



been placed before this Single Member Bench for hearing and order [also see 1996 SCC [L&S] 524; Inder Mani Kirti Pal Vs. Union of India relating to the jurisdiction of a Division Bench and a Single Member Bench].

2. The applicant who has been posted as Assistant Director [Rehabilitation], Vocational Rehabilitation Centre for Handicapped, Patna which is under Ministry of Labour & Employment, has come up for quashing of Annexures-10, 12, 12/1 & 14 to the application. What are these annexures may be seen.

Annexure-10, dated 06.05.2004 is a memorandum of charge for initiating a departmental proceeding against the applicant. The charge mainly was that the applicant while functioning as Superintendent, VRC for handicapped at Agartala had committed several financial irregularities by taking several advances from the cashier on different occasions during 1991-92 and 1992-93 by giving duly signed receipts with official seal, but later the applicant denied to have received the amount and also claimed that those receipts were forged.

Annexure-12 is an order issued on 15.06.2004 appointing Shri K.L.Kuli, Deputy Director at Guwahati as Inquiring authority to inquire into the charge against the applicant.

Annexure-12/1 is another order of the same date appointing one Shri R. Lakshmanaswamy, Assistant Director, Guwahati as the Presenting



Officer. All these three orders were issued by order and in the name of the President of India signed by the Director to the Govt. of India, in the Ministry of Labour, Directorate General of Employment & Training.

Annexure-14 is the letter issued by the Director of the same Directorate, in November, 2005 addressed to the applicant forwarding him a copy of the inquiry report as well the advice of the CVC as obtained from him, calling upon the applicant to submit his representation, if any, within 15 days of the receipt of the aforesaid office memorandum.

3. The only ground that has been urged on behalf of the applicant was that a Director of the aforesaid Directorate was not competent to issue those orders in the name of the President of India who admittedly was the appointing authority of the applicant. It was submitted that order of appointment of the applicant to the present post was issued under the signature of the Joint Secretary to the Ministry concerned, hence he could have been the competent officer to sign these letters, being his appointing authority.

4. The aforesaid ground taken on behalf of the applicant is itself contradictory as Joint Secretary in the Ministry cannot be the appointing authority when the President of India is admittedly the appointing authority, so far this applicant is concerned.



5. In reply, the learned counsel for the respondents has pointed out Annexures-R/1 & R/2 to the written statement. Annexure-R/1 is a notification issued by the Ministry of Home Affairs dated 03.11.1958 bearing S.O 2297-II incorporating the order made by the President on 25.10.1958. The relevant portion of this order is reproduced below :-

“O R D E R”

In exercise of the powers conferred by clause [2] of Article 77 of the Constitution and in supersession of Home Ministry's Notification No. S.R.O 167 dated the 19th June, 1950, the President is pleased to make the following rules, namely -

1. These rules may be called the Authentication [Orders and other Instruments] Rules, 1958.
2. Orders and other instruments made and executed in the name of the President shall be authenticated -

[1] by the signature of a Secretary, Special Secretary, Additional Secretary, Joint Secretary, Deputy Secretary, Under Secretary or Assistant Secretary to the Government of India; or

[1-A] by the signature of Director, Section Officer [Special] or Desk Officer in the Ministries, Departments, Secretariate and Offices specified in the First Schedule to the Government of India [Allocation of Business] Rules, 1961; or”


6. Annexure-R/2 is the Schedule to the Government of India



[Allocation of Business Rules, 1961] in which Ministry of Labour is at sl. no. 18.

7. From perusal of the Rules at Annexure-R/1 it is clear that any order made and executed in the name of the President can be authenticated under the signature of the Director. Once an order in the name of President of India is authenticated by a competent officer, no further inquiry in that matter, as to whether or not the order had been issued with the consent of the President, can be made nor the matter can be reviewed by this Tribunal. Therefore, the ground taken by the applicant to press this application has no legs to stand upon.

8. This application is dismissed. No costs.



[P. K. Sinha]/VC

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