

Central Administrative Tribunal Principal Bench, New Delhi

O.A.No.100/2983/2016
M.A.No.100/2640/2016

Thursday, this the 1st day of September 2016

Hon'ble Mr. Justice Permod Kohli, Chairman
Hon'ble Mr. K.N. Shrivastava, Member (A)

Dr. Ram Krishna Mishra s/o late Ram Saran Mishra
Asstt. Director (Under suspension)
CSTT, M/O HRD
r/o 109, Shakti Khand 3
Indirapuram, Ghaziabad, UP - 201010

..Applicant

(Mr. Rahul Kumar Singh, Advocate)

Versus

1. Union of India through its Secretary
M/o Human Resources Development
D/o Higher Education
Shastri Bhawan, New Delhi
2. Commission for Scientific & Technical Terminology
Through its Chairman
West Block 7, R K Puram, New Delhi – 110 066
3. Section Officer (Vigilance)
d/o Higher Education
M/o Human Resource Development
Shastri Bhavan New Delhi
4. Secretary
Union Public Service Commission
Dhaulpur House, Shahjahan Road
New Delhi

..Respondents

(Mr. Hanu Bhasker, Advocate for respondent Nos. 1 to 3 –
Mr. R N Singh, Advocate for Mr. R V Sinha, Advocate for respondent No.4)

O R D E R (ORAL)

Justice Permod Kohli:

Notice.

2. Mr. Hanu Bhasker, learned standing counsel appears and accepts notice on behalf of respondent Nos. 1 to 3 and Mr. R N Singh for Mr. R V Sinha, learned counsel, appears and accepts notice on behalf of respondent No.4.

3. The applicant was serving as Assistant Director in Commission for Scientific and Technical Terminology (CSTT) (respondent No.2). He was convicted by the CBI Court on 16.08.2012. On his conviction, he was ordered to be dismissed vide order dated 15.04.2013 by invoking the provisions of Rule 19 (1) of CCS (CCA) Rules, 1965. The applicant challenged the order of dismissal in O.A. No.4500/2013, which came to be disposed of vide Judgment dated 09.07.2015 by this Tribunal whereby the order of dismissal dated 15.04.2013 was quashed. It was further declared that the applicant shall be deemed to be continued under suspension till any fresh order is passed by the disciplinary authority in terms of Rule 19 (1) of the Rules after duly complying with the provisions contained therein, meaning thereby the respondents were granted liberty to initiate fresh proceedings under Rule 19 (1) of CCS (CCA) Rules, 1965. The Tribunal further directed the respondents to pay the subsistence allowance to the applicant for the period of suspension, i.e., September 2011 to April 2012, if not already paid. The prayer of the applicant for reinstatement with consequential benefits of arrears of pay and allowance was, however, rejected. Thereafter the applicant has been issued a show cause notice dated 15.01.2016 seeking his response to the decision of the competent authority for dismissal on account of his conviction by the Special Judge CBI Court vide Judgment dated 16.08.2012 under Sections 468, 471, 420 and 511 IPC read with Sections 13(1) (d), 13 (2) and 15 of the Prevention of

Corruption Act, 1988. He was ordered to undergo rigorous imprisonment for four years and a fine of ` 1 lac.

4. The applicant, instead of submitting his response to the show cause notice, wrote letter dated 18.03.2016 to the Under Secretary (Vigilance), Ministry of Human Resources Development for payment of subsistence allowance and sought extension in time for filing the response till the final payment of arrears of subsistence allowance. This request of the applicant has been rejected vide impugned order dated 19.04.2016 (Annexure A-1).

5. It may be noted herein that in compliance to the aforementioned directions of this Tribunal, the applicant has already been paid the subsistence allowance for the period indicated in the Judgment dated 09.07.2015 and according to the learned counsel for applicant, the applicant has received subsistence allowance up to July 2016.

6. However, after arguing for some time, learned counsel for applicant has stated that the applicant would be satisfied if he is allowed an opportunity to file the reply/ response to the show cause notice, as vide impugned order his right to file reply/ response has been closed.

7. Keeping in view the prayer made, this Petition is being disposed of at the admission stage itself with the following directions:

(i) The impugned order to the extent it had denied the further opportunity to the applicant to file his reply/response to the show cause notice is hereby set aside.

- (ii) The applicant is allowed two weeks' time to submit his reply to the show cause notice dated 15.01.2016, failing which the right to file reply shall remain closed.
- (iii) The competent authority may pass consequential order in accordance with law by taking into consideration the reply of the applicant.

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In view of the aforementioned Order, this Application stands disposed of.

Order **dasti**.

(K.N. Shrivastava)
Member (A)

(Justice Permod Kohli)
Chairman

September 1, 2016
/sunil/