

**Central Administrative Tribunal
Madras Bench**

**RA/310/00014/2017 & MA/310/00577/2017 & MA/310/00578/2017 in
OA/310/01368/2013**

Dated Friday the 7th day of September Two Thousand Eighteen

P R E S E N T
Hon'ble Mr. R.Ramanujam, Member(A)
&
Hon'ble Mr.P.Madhavan, Member(J)

S.Nambi
S/o Sankaraveeraputhirapillai
No.11-A, Thadiveerankoil West Street,
Tirunelveli 627 006. .. Applicant/Applicant
By Advocate **M/s.Ravi**

Vs.

1. Union of India, rep by the
Chief Administrative Officer,
Construction, Southern Railway,
Egmore, Chennai 600 008.
2. The Deputy CPO/CN/MS,
O/o the Chief Administrative Officer,
Construction, Egmore,
Chennai 600 008.
3. Mr.Sudhanshu Sharma
CE/CN/C/MS & Disciplinary Authority,
O/o the Chief Administrative Officer,
Construction, Egmore,
Chennai 600 008. .. Respondents/Respondents

By Advocate **Dr.D.Simon**

ORAL ORDER
(Pronounced by Hon'ble Mr.R.Ramanujam, Member(A))

This RA has been filed seeking a review of the Order of this Tribunal dated 22.8.2016 in OA 1368/2013 by which the OA was dismissed with liberty to the applicant to submit his explanation to the show cause notice dated 05.9.2013 within one month which the respondent authority would consider and pass orders.

2. Learned counsel for the applicant would submit that the order of this Tribunal did not deal with the relief sought by the applicant in his amended prayer in as much as the applicant had not only challenged the show cause notice dated 05.9.2013 but also sought reinstatement on the post of Supervisor from which he was suspended whereas, by an order dated 21.11.2012 of the 2nd respondent, the applicant was reinstated only on the post of Motor Trolley Fitter which is a lower post. As the order of the Tribunal failed to go into the relief sought fully, the RA is liable to be admitted, it is contended.

3. Learned counsel for RA applicant would further submit that the show cause notice was effectively a communication of the decision of the disciplinary authority as a finding was recorded therein that the applicant was not honourably acquitted by the Hon'ble High Court, but only granted the benefit of doubt. As the respondents had already reached a conclusion without hearing the applicant, the issue of show cause notice was a farce and, therefore, no useful purpose would be served by submitting a reply to the show cause notice.

4. Learned counsel for the respondents submits that the applicant had no claim to

the post of Supervisor as he had not been appointed to the post substantively. He would also submit that the respondents were aware of the pending review application and had, therefore, not passed any orders in continuation of the show cause notice though the applicant had not submitted his reply within the time limit.

5. After hearing the arguments on both sides and perusing the pleadings as well as the order passed by this Tribunal, we are of the view that although the relief sought by the applicant in the amended form had been correctly reproduced in the order of this Tribunal, the issue of reinstatement on the post of Supervisor had not been dealt with separately. However, it appears that the applicant was only on adhoc promotion on the post of Supervisor and neither the applicant nor the respondents had apprised the court on whether the applicant would have continued on the adhoc post without reversion but for his suspension on account of the charges pertaining to the Criminal Case on the basis of which disciplinary action had been taken.

6. We do not, however, agree with the argument that the show cause notice was a farce as such an argument cannot be presented in a review application. It is only after hearing the arguments that the Bench had finally arrived at the conclusion that the ends of justice would be met in this case if the applicant was allowed to submit a reply to the show cause notice and the respondent authority directed to consider it in accordance with law.

7. As it is submitted that the order does not cover the issue of reinstatement of the applicant on the post of Supervisor and it is also submitted that the applicant has so far not submitted his reply to the show cause notice, we are of the view that the

applicant could be permitted to include in his reply to the show cause notice, the grounds for reinstatement to the post of Supervisor within a period of two weeks from the date of receipt of a copy of this order. On receipt of such reply, the competent authority shall consider the same in accordance with law and pass a reasoned order within a period of two months thereafter.

8. RA is disposed of in the above terms. MA for condonation of delay in presenting the RA stands disposed of.

(P.Madhavan)
Member(J)

07.9.2018

(R.Ramanujam)
Member(A)

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