

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH
CIRCUIT SITTING : GWALIOR

Original Application No.202/00994/2018

Gwalior, this Wednesday, the 24th day of October, 2018

HON'BLE MR. R. RAMANUJAM, ADMINISTRATIVE MEMBER
HON'BLE MR. RAMESH SINGH THAKUR, JUDICIAL MEMBER

Hedar Khan, S/o Late Shri Bhure Khan, aged – 32 years,
Occupation – Unemployed R/o C/o Nawab Khan, Pinto Park,
Jaderua Kalan, Residency Road, Morar, Gwalior, M.P. 474006.

-Applicant

(By Advocate – Shri Alok Kumar Sharma)

V e r s u s

1. Union of India through the Comptroller and Auditor General of India, Pocket 9-B, Deendayal Upadhyay Marg, New Delhi – 110124.
 2. Principal Accountant General Civil and Commercial Audit, Audit Bhawan, Jhansi Road, Gwalior M.P. 474002.
 3. Deputy Accountant General/Administration, Office of Principal Accountant General Civil and Commercial, Audit Bhawan, Jhansi Road, Gwalior, M.P. 474002
- Respondents**

(By Advocate – Shri Avanish Kumar Dubey, proxy counsel of Shri M.K. Sharma)

ORDER (O R A L)

By R. Ramanujam, AM.

Heard. The applicant has filed this Original Application seeking following reliefs:

“(8.1) That, the action and order of the respondents of terminating the services of applicant and refusing to reinstate

him in service vide Annexure A/1, A/2 and A/3 may kindly be declared as illegal and the same may kindly be quashed.

(8.2) That, respondents may kindly be directed to reinstated the applicant with all consequential benefits.

(8.3) Any other suitable relief which this Hon'ble Tribunal deem fit and proper in the circumstances of the case may also be given to the applicant along with cost of this litigation.”

2. It is submitted that the applicant was granted compassionate appointment by an order dated 30.12.2010 in the office of third respondent. However, his services were terminated on 15.06.2016 on the ground that he had failed to acquire the requisite qualification within a period of five years from the date of appointment. It is contended that the applicant had passed the High School Examination in December, 2016, which was an adequate qualification for the post held by him. In allegedly similar circumstances, the Hon'ble Apex Court in Civil Appeal Nos.6915-6921 of 2015 (**Union of India and Others vs. Om Prakash and Others Etc.**) had permitted persons removed from service to be taken back on the following terms:

“(i) Past service shall only be counted for the purpose of pension, if any.

(ii) There shall be no claim for seniority over the persons, who had already been regularised or appointed.

(iii) No entitlement to backwages.”

3. It is further submitted that the applicant made a representation dated 16.02.2018 citing the above said judicial precedent and sought to be reinstated in service. However, the respondents without application of mind sent him Annexure A-3 communication dated 15.03.2018 by which it was held that the case of the applicant was completely distinguishable from the applicants/respondents in the Civil Appeal as decided by the Hon'ble Supreme Court and, therefore, the judgment dated 27.11.2017 could not be made applicable to the case of the applicant.

4. Learned counsel for the applicant would submit that the said communication is non-speaking and it has not been explained how the order of the Hon'ble Supreme Court would not be applicable to the case of the applicant. Accordingly, the applicant would be satisfied if the Annexure A-3 communication of the respondents is set aside and respondents directed to pass a reasoned and speaking order in the light of the judicial precedent relied upon by the applicant.

5. Keeping in view the limited prayer as also the fact that the impugned Annexure A-3 communication dated 15.03.2018 is silent on how the applicant's case was found completely distinguishable

from the facts of the judicial precedent cited by the applicant, we deem it appropriate to direct the competent authority to reconsider the representation of the applicant dated 16.02.2018 in the light of the judicial precedent relied upon and pass a reasoned and speaking order within a period of two months from the date of receipt of a copy of this order. If it is proposed to reject the claim of the applicant, such order shall duly explain how the facts of the applicant's case and those of the judicial precedent relied upon by him are distinguishable.

6. The O.A is disposed of in the above terms. No costs.

(Ramesh Singh Thakur)
Judicial Member

(R. Ramanujam)
Administrative Member

am/-