

CENTRAL ADMINISTRATIVE TRIBUNAL
CALCUTTA BENCH

M.A. No. 350/00324/2018

Date of Order: 18.06.2018

O.A. No. 350/00450/2018

Present: Hon'ble Mrs. Manjula Das, Judicial Member

Aloka Sahis

.....Applicant.

-VS-

Union of India & Ors.

.....Respondents.

For the Applicant : Mr. B.P. Manna

For the Respondents : Mr. A. Chakraborty



Per Mrs. Manjula Das, Judicial Member:

Heard Mr. B.P. Manna, learned counsel for Misc. Applicants in M.A. No. 350/00324/2018 as well as Mr. A. Chakraborty, learned counsel for the applicant/opposite party.

2. Mr. B.P. Manna, learned counsel appearing for the Misc. Applicants/ Respondents submits that he has filed this M.A. No. 350/00324/2018 seeking for modification of the interim order passed by this Tribunal on 02.04.2018. It was submitted by Mr. Manna that although this Tribunal passed an order dated 02.04.2018 by directing the respondents to maintain the status quo of the service

of the applicant so far as continuance as Trainee is concerned till the next date of listing, however, the said order has not been served upon the respondent authorities. As a result, one termination of service order has been issued on 17.04.2018 which has been acknowledged by the applicant on 19.04.2018.

3. Mr. Manna submits that as there was no interim order in presence of the respondents, the termination order dated 17.04.2018 was issued.

4. On the other hand, Mr. A. Chakraborty, learned counsel appearing for the applicant/opposite party vehemently submits that there was an interim order passed on 02.04.2018 which was ex parte inasmuch as the same was moved in an urgent one. According to the learned counsel, once the Judicial order has been passed by maintaining status quo and the applicant was continued till 17.04.2018 which is not disputed by the respondent authorities, the applicant ought to have been continued and said termination order is bad in law.

5. Mr. Manna, however vehemently submits that the termination order dated 17.04.2018 has not been challenged by the applicant before this Tribunal neither by filing C.P.C. nor M.A. for execution. Thus termination order dated 17.04.2018 stands. The applicant herself filed an appeal before the authority against the termination order on 02.05.2018 which is still pending inasmuch as this O.A. is subjudiced. According to Mr. Manna, until and unless the interim order is not received, the order dated 17.04.2018 cannot be held as nonest.

6. I have heard the rival parties, perused the pleadings and the materials placed before me. On 02.04.2018, while the matter was moved against the speaking order dated 19.03.2018 whereby the applicant was sought to be terminated and this Tribunal vide order dated 02.04.2018 passed a detailed order.

Operative portion of the said order reads as under:

“9. Hence, in the above circumstances, I direct the respondent authority to maintain status quo of the service of the applicant so far as continuance as Trainee is concerned till the next date of listing.

10. List on -8.05.2018.”

7. On 07.05.2018, M.A. No. 324/2018 has been filed by the respondents for modification of the aforesaid interim order of this Tribunal dated 02.04.2018.

Thereafter, the O.A. was listed on 08.05.2018 which is the next date of listing and the Division Bench has passed the following order:

“Accordingly, we extend the status quo/interim order till the next date of hearing.”

8. Thereafter, the matter was listed on 15.05.2018 and the Single Bench also passed order as follows:

“The interim order is extended till the next date of hearing.”

9. Again the matter was listed on 21.05.2018 where the Single Bench this Tribunal passed order as follows:

“Interim order shall continue till the next date of listing.”

10. Thereafter, the matter was listed on 22.05.2018 and the Division Bench of this Tribunal passed order as follows:

“Interim order dated 02.04.2018 shall continue till the next date.”

11. Again matter was listed on 05.06.2018 and the Division Bench of this Tribunal passed order as follows:

“Interim order dated 02.04.2018 shall continue till the next date.”

12. On 08.06.2018, the matter was again listed before the Single Bench

and this Tribunal passed order as follows:

“Ld. counsel for the applicant and respondents are present. List this matter on 1106.2018 before available D.B.”

13. On 11.06.2018, the Single Bench of this Tribunal sitting singly passed order as follows:

“3. Interim order, if any, to continue till the next date of listing.”

14. From the above sequence, it is abundant clear that in all dates, interim order was extended else than 08.06.2018. Thus, it is clear that the respondent authorities/Misc. Applicants by taking advantage of order dated 08.06.2018 wants to submit that interim order dated 02.04.2018 shall not be continued as there is no order on 08.02.2018.

15. However, it is seen that on the next date, that is, 11.06.2018, Single Bench of this Tribunal sitting singly passed order as follows:

“3. Interim order, if any, to continue till the next date of listing.”

16. After perusal of the so many orders of Single Bench and Division Bench of this Tribunal, I am of the view that until and unless the M.A. is heard, only by taking the date 08.06.2018 wherein no such specific order was passed for extension of interim order, the interim order dated 02.04.2018 shall not be thrown out by disengaging the applicant. More so, there is an application made by the applicant by making humble prayer for allowing her to continue in service in view of the order dated 02.04.2018 passed by this Tribunal. However, the respondent authorities still not responded. Rather objected and not allowed to continue and has filed M.A. 17. In view of the above circumstances, I hereby clarified as hereunder:-

1. On 02.04.2018, interim order was passed directing the respondent authority to maintain the status quo of the service of the applicant so far as continuance as Trainee is concerned.
2. The Department on the very day of passing of the order dated 02.04.2018, in earlier occasion, they waited for seven days and allowed the applicant to continue till 17.04.2018. However, subsequently, disallowed the applicant on the plea that there is no interim order.
3. It is explicit clear that in the very day of 17.04.2018, interim order was in existence either receiving or non-receiving by the respondent authorities.
4. Although the interim order was passed on 02.04.2018, however, detailed order was served upon the applicant on 01.05.2018. As a result, confusion arises amongst the parties.
5. Now I am clarified that interim order dated 02.04.2018 shall continue till the next date.
6. M.A. No. 324/2018 filed for modification of the interim order will be heard by this Tribunal on the next date and till then, applicant be allowed to continue in her place where she worked or continued till 17.04.2018.
7. The respondent authorities as and when receives the interim order dated 02.04.2018, they ought to have canceled the termination order dated 17.04.2018. As such, the order dated 17.04.2018 passed by the respondent authorities is non-est in view of the order passed by this Tribunal on 02.04.2018.

17. List the matter on 17.08.2018.

(Manjula Das)
Member (J)