

CENTRAL ADMINISTRATIVE TRIBUNAL
CALCUTTA BENCH



No. OA 351/382/2017

Date of order : 24.3.2017

Present: Hon'ble Mr.A.K.Patnaik, Judicial Member

RUPAK BISWAS

S/o Late Sudhansu Kumar Biswas,
Aged about 53 years,
Sacked while working to assist
The Swimming Coach,
In the office of Sports Authority
Of India in the SAG Centre,
Netaji Stadium,
Port Blair,
Andaman - 743144,
R/o 9/7B, Peary Mohan Sur Lane,
Kolkata - 700006.

...APPLICANT

VERSUS

1. Union of India, through
The Secretary,
Govt. of India,
Ministry of Youth Affairs & Sports,
Shastri Bhawan,
New Delhi - 110003.
2. The Director General,
Sports Authority of India,
Jawaharlal Nehru Stadium,
Lodhi Road Complex,
East Gate,
New Delhi - 110003.
3. The Regional Director,
Sports Authority of India,
Netaji Subhas Eastern Centre,
Salt Lake City,
Kolkata - 700098.
4. The Director Incharge,
Sports Authority of India,
Netaji Subhas Eastern Centre,
Salt Lake City,
Kolkata - 700098.
5. The Deputy Director (Personnel),
Sports Authority of India,
SAG Centre,
Netaji Stadium,
Port Blair - 743144.
6. The Director of Sports
A&N Administration,
Netaji Stadium,
Port Blair - 743144.

...RESPONDENTS.

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For the applicant : Mr.P.C.Das, counsel
Ms.T.Maity, counsel

For the respondents: Mr.D.N.Ray, counsel
Mr.B.Nandi, counsel (Resp.No. 2-6)
Mr.S.K.Ghosh, counsel (A&N Admn)

O R D E R

Mr.A.K.Patnaik, J.M.

Heard Mr.P.C.Das, ld. Counsel along with Ms.T.Maity, ld. Counsel appearing for the applicant, Mr.D.N.Ray, ld. Counsel along with Mr.B.Nandi, ld. Counsel appearing for the respondents No. 2 to 6 and Mr.S.K.Ghosh, ld. Counsel appearing for the A&N Administration.

2. This OA has been filed under Section 19 of the A.T.Act, 1985, seeking the following reliefs :

- a) To quash and/or set aside the impugned memorandum of charge sheet dated 29.9.2015 issued by the director Incharge, Sports Authority of India, Netaji Subhas Eastern Centre, Kolkata against the applicant being Annexure A/5 of this original application;
- b) To quash and/or set aside the impugned Enquiry Report dated 5.2.2016 submitted by the Enquiry Officer which was supplied to the present applicant vide office order dated 21.4.2016 being Annexure A/7 of this original application.
- c) To quash and/or set aside the impugned major penalty by issuing order for compulsory retirement being No. III/SAI/EC/Enquiry/778/RB/2016/Part-I/8389 dated 6/7.3.2017 issued by the Director, Sports Authority of India, Netaji Subhas Eastern Centre, Salt Lake City, Kolkata - 700106 against the applicant being Annexure A/10 of this original application.
- d) To pass an appropriate order directing upon the respondent authority to consider statutory appeal dated 18.3.2017 preferred by the applicant before he respondent authority to withdraw and/or cancel the impugned major penalty order of compulsory retirement dated 6/7.3.2017.
- e) To declare that the entire enquiry proceeding which was initiated by the Disciplinary Authority against the applicant under CCS (Conduct) Rules, 1964 and CCS (CCA) Rules, 1965 is not at all applicable in the case of the applicant as your applicant is not a regular employee and only he has got temporary status and he is getting regular pay and is enjoying the regular pay band of the Government of India, therefore Rule 14 of the CCS (CCA) Rules 1965 is not at all applicable in the case of the present applicant and on that ground alone, the entire proceeding may be quashed and/or set aside including the memorandum of charge sheet along with enquiry report and the order of compulsory retirement dated 6/7.3.2017 and your applicant may be exonerated and reinstated in service with all consequential benefits.

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- 1) To pass an appropriate order directing upon the respondent authority to set aside and/or quash the memorandum of charge sheet along with enquiry report and the order of compulsory retirement dated 6/7.3.2017 and to reinstate the present applicant in service with all consequential benefits including back wages.

3. Ld. Counsel for the applicant Mr.Das submitted that the applicant has submitted an appeal dated 18.3.2017 being Annexure A/11 to the OA, addressed to the respondent No.2 and the same is still pending consideration. Mr. Das fairly submitted that this OA can be disposed of by issuing a direction upon respondent No.2 to consider and dispose of the representation dated 18.3.2017 within a specific time frame.

4. Therefore I dispose of the OA without waiting for the reply by directing the respondent No.2 that if such an appeal dated 18.3.2017 is preferred and the same is still pending, the same shall be considered as per rules in force, by passing a well reasoned order and communicate the same within two months from the date of receipt of the copy of this order. Though I have not expressed any opinion on merit, I direct the respondent No.2 that if the grievance of applicant is found to be genuine, then expeditious steps may be taken to grant him the benefit of compassionate appointment within a further period of 3 months from the date of such consideration.

5. With the aforesaid observation and direction the OA is disposed of.

6. As prayed for by Mr.Das, a copy of this order along with the paper book of this OA be transmitted to respondent No.2 by Speed Post for which he undertakes to deposit the cost with the Registry within 6.4.2017.

(A.K.PATNAIK)
MEMBER (J)

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