

CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH, MUMBAI.

ORIGINAL APPLICATION No.220/2018

Date of Decision: 11.10.2018.

CORAM:HON'BLE DR. BHAGWAN SAHAI, MEMBER (A)
HON'BLE SHRI R.N. SINGH, MEMBER (J)

Mukund Digambar Sonawane,
Age 42 years, Working as Fireman
in Ordnance Factory Bhusawal.
R/at 30/230, Subhash Nagar, Off. B.H.
Estate, Bhusawal – 425 203. ... *Applicant*
(Advocate Shri Vicky Nagrani)

VERSUS

1. Union of India, through
The Secretary, Ministry of Defence,
Department of Defence Production,
South Block, New Delhi 110 001.
2. The Chairman,
Ordnance Factory Board,
Shahid Khudiram Bose Marg,
Kolkata 700 001.
3. The General Manager,
Ordnance Factory, Bhusawal,
Dist. Jalgaon – 425 203. ... *Respondents*
(Advocate Shri V.S. Masurkar)

ORDER (Oral)
Per : Shri R.N. Singh, Member (J)

By this OA, the Applicant who is working as Fireman under the respondents has sought the following the reliefs:

“8.a) This Hon'ble Tribunal may graciously be pleased to call for the records of the case from the respondents and after examining the same quash and set aside show cause notice dated 28.02.2018 with all consequential benefits.

8.b) This Hon'ble Tribunal may further be to restrain the respondents from terminating the services of the applicant from the post of Fireman.

8.c) This Hon'ble Tribunal may graciously be pleased to hold and declare that the applicant have been validly appointed on the post of Fireman in Ordnance Factory, Bhusawal and now at this belated stage the services cannot be terminated by issuing show cause notice since he is already a permanent/confirmed employee w.e.f. 07.05.2014.

8.d) Costs of the application be provided for.

8.e) Any other and further order as this Hon'ble Tribunal deems fit in the nature and circumstances of the case be passed. ”

2. On receipt of notice, the Respondents have entered appearance and have filed their reply-affidavit. At the outset, it is submitted by the learned counsel for the respondents that the OA is premature and without any cause of action in as much as the applicant has challenged only a show-cause notice issued to him dated 28.02.2018 (Annexure A-1). He further submits that instead of filing his reply to the show-cause notice, the applicant has hurriedly filed the present OA. In reply to this, the learned counsel for the applicant submits that the applicant was under *bona fide* apprehension in as much as though he is a permanent employee and he is not facing any

departmental proceedings, he was put to this show-cause notice for termination of his services and therefore, he has filed the present OA. He further submits that in compliance of the directions of this Tribunal vide order dated 21.03.2018, the applicant has filed a reply dated 28.03.2018 (Annex. MP1) and the same has been brought on record by the applicant by filing **MA No. 563/2018.**

3. It is trite law that a mere show-cause does not give rise to any cause of action because it does not amount to an adverse order which effects the rights of any party unless the same has been issued by a person having no jurisdiction to do so and in this regard, we may rely upon the law laid down by the Hon'ble Apex Court in **Union of India & Anr. Vs. Kunisetty Satyanarayana, AIR 2007 SC 906**, para 14 of which reads as under:

“14. The reason why ordinarily a writ petition should not be entertained against a mere show-cause notice or charge-sheet is that at that stage the writ petition may be held to be premature. A mere charge-sheet or show-cause notice does not give rise to any cause of action,

because it does not amount to an adverse order which affects the rights of any party unless the same has been issued by a person having no jurisdiction to do so. It is quite possible that after considering the reply to the show-cause notice or after holding an enquiry the authority concerned may drop the proceedings and/or hold that the charges are not established. It is well settled that a writ lies when some right of any party is infringed. A mere show-cause notice or charge-sheet does not infringe the right of any one. It is only when a final order imposing some punishment or otherwise adversely affecting a party is passed, that the said party can be said to have any grievance”.

4. In view of this, we agree with the learned counsel for the respondents that the applicant instead of filing the present OA he should have filed a detailed reply to the competent authority in pursuance to the impugned show-cause notice dated 28.02.2018. At this stage, the learned counsel for the applicant submits that the applicant is having cause of action for the reasons that he is challenging the very correctness of the show-cause notice and also the jurisdiction of the competent authority in issuance of the show-cause notice. However, the learned counsel for the applicant does

not dispute the competence of the authority for issuing the impugned show-cause notice. Be that as it may, as it is not disputed by the learned counsel for the applicant that the authority who has issued the show-cause notice, is competent to issue the same. In the facts and circumstances of the case and discussions made herein above, we dispose of the OA with liberty to the applicant to file an additional reply to the impugned show-cause notice within ten days of receipt of certified copy of this order and in case the same is received, it shall be considered along with the main reply dated 28.03.2018 of the applicant by the competent authority by taking into consideration all the grounds raised by the applicant in his such reply/representations in accordance with law within twelve weeks. Keeping in view the fact that the applicant has already been protected by the interim order dated 22.01.2018, and other facts and circumstances, we direct the respondents not to give effect to the order if the order is passed against the applicant in pursuance to the impugned show-cause notice dated

28.02.2018 for ten days of communicating such order to the applicant.

5. In the aforesaid terms, the OA is disposed off. Accordingly the MA No.563/2018 also stands disposed off. No order as to costs.

(R.N. Singh)
Member (J)

(Dr. Bhagwan Sahai)
Member (A)

dm.