

CENTRAL ADMINISTRATIVE TRIBUNAL

CALCUTTA BENCH

C.A. NO. 350/1792/2018

Amar Kumar Pramanik, Son of Sri Dulal Chandra Pramanik, aged about 42 yrs. working as Constable, C.B.I. under Deputy Inspector General of Police and HOB; C.B.I., Anti Corruption Branch, Kolkata, at present residing at Vill. & Post Aminabad, P.S. Domkal, District Murshidabad, Pin - 742406.

..Applicant

- Vs -

1. Union of India through the Secretary,
Department of Personnel & Training,
Govt. of India,
North Block, New Delhi - 110 001.
2. The Director,
Central Bureau of Investigation,
Govt. of India, Plot No. 5,
CBI, Head Quarters, 7th Floor,
CGO Complex, Lodhi Road,
New Delhi - 110003.
3. Joint Director & HOZ
Kolkata Zone,
Central Bureau of Investigation
15th Floor, 2nd M.S.O. Building,
Nizam Palace, 234/4, A.J.C. Bose Road,
Kolkata - 700020.
4. The Deputy Inspector General of Police & HOB
Central Bureau of Investigation,
Anti Corruption Branch, Kolkata,
234/4, A.J.C. Bose Road,
2nd M.S.O. Building, 4th Floor,
Nizam Palace, Kolkata - 700020.

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5. The Superintendent of Police (1)
Central Bureau of Investigation
Anti Corruption Branch, Kolkata
234/4, A.J.C. Bose Road
2nd M.S.O. Building, 14th Floor
Nizam Palace, Kolkata - 700020

6. Administrative Officer (Pers)
C.B.I., DSPE, HO, New Delhi
Central Bureau of Investigation
Govt. of India, Plot No. 5
CBI, Head Quarters, 7th Floor
CGO Complex, Lodhi Road
New Delhi - 110003.

7. The Director General
Sashastra Seema Bal,
Govt of India, Ministry of Home Affairs,
Force Head Quarters,
East Block-V, RK Puram,
New Delhi, Pin - 110066.

Respondent

Wd

CENTRAL ADMINISTRATIVE TRIBUNAL
KOLKATA BENCH

O.A/350/1792/2018

Date of Order: 11.12.2018

Coram: Hon'ble Mr. A.K Patnaik, Judicial Member
Hon'ble Dr. N.Chatterjee, Administrative Member

For the Applicant(s): Mr. C. Sinha, Counsel

For the Respondent(s): Mr. R.Halder, Counsel

ORDER (ORAL)

A.K Patnaik, Member (J):

Heard Mr. C.Sinha, Ld. Counsel for the applicant.

2. Mr. Sinha submitted that before filing the O.A., he has served copy of the O.A. to official Respondents and to this effect he has brought memo on the record. As we do not want Official Respondents to go unrepresented, therefore, on our request, Mr. Sinha has served copy of the O.A., along with annexures, to Mr. R.Halder, Ld. Counsel, who usually appears for the Union of India/CBI in many matters, and is present in the court today.

3. Mr. Sinha brought to our notice earlier order passed by the Single Bench of the Tribunal in O.A. No. 1520/2018 on 10.10.2018, which reads as under:

4. *Having heard Ld. Counsel for the parties, without going into the merit of the matter, I dispose of this O.A. by directing Respondent No. 2 to consider the representation of the applicant, if the same has been filed and is pending before him for consideration, and pass a reasoned and speaking order as per rules and regulations within a period of six weeks from the date of receipt of copy of this order. I make it clear that status quo as on date so far as*



continuance of the applicant in the present place of posting is concerned will be maintained till the period of one week from the date of communication of the order. I make it clear that if after such consideration the applicant is found to be otherwise eligible for absorption then expeditious steps be taken to absorb him in his present place of posting. I make it clear that if in the meantime the said representation has already been disposed of then the result thereof be communicated to the applicant within two weeks.

5. With the aforesaid observation and direction, this O.A. stands disposed of. No costs.

6. As prayed for by the Ld. Counsel for the applicant, copy of this order, along with paperbook be transmitted to Respondent No. 2, for which, he undertakes to deposit the cost with the Registry within a week."

Mr. Sinha submitted that the order was passed on 10.10.2018 but the Official Respondents vide their order dated 29.11.2018 informed the applicant that his representation has been considered by the CBI Headquarter on 17.10.2018. Pinpointing this, Mr. Sinha submitted that when the order of this Tribunal was passed on 10.10.2018 and decision of the CBI Headquarter was taken on 17.10.2018, it is crystal clear that the decision has been taken after the order was passed on 10.10.2018. Secondly, Mr. Sinha brought to our notice the representation preferred by the applicant under Annexure-A/11 and submitted that both the rules as well as well settled position of law clearly mandates the Official Respondents to consider the representation in totality by taking into consideration the valid points raised by the applicant but the same was rejected without considering any of the points raised in the representation preferred

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under Annexure-A/11. Hence, the Respondents have passed a cryptic order that too by the Administrative Officer (Pers.) instead of Director, CBI. Mr. Sinha submitted that it is a case of blatant violation of the order of the Tribunal as because the direction was to the Director, CBI, i.e. Respondent No.2, to consider the representation but the Administrative Officer (Pers.) has issued this order. Mr. Sinha further submitted that in the said letter nowhere it has been mentioned that this is issued with the approval of the competent authority. Therefore, it is manifestly clear that perhaps this representation was not brought to the notice of the Director, CBI.

4. On the other hand, Mr. R. Halder, Ld. Counsel for the Official Respondents, (on our request who has already received copy of the O.A. along with annexures) brought to our notice Annexure-A/14 and submitted that the representation of the applicant has been considered and rejected.

5. However, we are quite satisfied with the submission of the Mr. Sinha and in our considered view Annexure-A/14 order at best can be described nothing but cryptic one. Therefore, while quashing Annexure-A/14, we remand the matter back to Respondent No.2 with direction to reconsider the case of the applicant for absorption within a period of three months from the date of receipt of copy of this order keeping in mind the earlier order passed on 10.10.2018 by the Single Bench of this Tribunal and communicate the result to the applicant in a well reasoned order within a further period of four weeks from the date of

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such consideration. However, till the representation is considered, disposed of and result is communicated to the applicant, status quo as on date so far as continuance of the applicant is concerned will be maintained.

6. With the aforesaid observation and direction, this O.A. stands disposed of. No costs.

7. As prayed for by the Ld. Counsel for the applicant, copy of this order, along with paperbook be transmitted to Respondent No. 2, for which, he undertakes to deposit the cost with the Registry within a week.

8. Copies of this order be handed over to the Ld. Counsel for the parties.

(Dr. Nandita Chatterjee)
Member (A)

(A.K.Patnaik)
Member (J)

RK/PS