

**CENTRAL ADMINISTRATIVE TRIBUNAL
CHANDIGARH BENCH**

(Circuit Bench: Shimla)

...

ORIGINAL APPLICATION NO.063/00924/2018

Shimla, this the 6th day of March, 2019

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**CORAM: HON'BLE MR. SANJEEV KAUSHIK, MEMBER (J)
HON'BLE MRS. P. GOPINATH, MEMBER (A)**

...

Bidhi Singh son of Shri Kale Ram, age 59 years, resident of VPO Bari via Bhawarna, Dharmshala (HP), working as Casual Labourer (TS) at Head Post Office, Dharamshala (H.P.)-176215, (Group-D).

....APPLICANT

(Present: Mr. D.R. Sharma, Advocate)

VERSUS

1. Union of India through Secretary, Ministry of Information Technology, Department of Posts, Dak Bhawan, Sansad Marg, New Delhi-110001.
2. Sr. Superintendent of Post Offices, Dharamshala Division, Dharmshala-176215.

....RESPONDENTS

(Present: Mr. Anshul Bansal, Advocate)

ORDER (oral)

SANJEEV KAUSHIK, MEMBER (J)

With the consent of learned counsel for the parties the matter is taken up for final hearing at this stage.

2. The applicant has assailed order dated 1.5.2018 (Annexure A-1), whereby his representation dated 23.4.2018 for regularization of his service has been rejected on the ground that he was not a party to the decision on which he had placed reliance i.e. O.A. NO. 426-HP-2013- **Painu Ram vs Union of India & Ors.** decided on 31.1.2014 by this Tribunal.
3. The facts of the case are not in dispute.

4. We have heard Mr. D.R. Sharma, learned counsel for the applicant as well as Mr. Anshul Bansal, learned counsel for respondents and have carefully gone through the record.

5. Mr. D.R. Sharma, learned counsel for the applicant vehemently argued that the impugned order at Annexure A-1 rejecting the representation of the applicant for grant of benefit is totally illegal, arbitrary and is liable to be set aside as the respondents have rejected the claim of applicant only on the ground that the applicant was not a party to the relied upon case and they have not considered the ratio laid down in that case. He has also drawn our attention to the written statement filed by the respondents whereby they have made an averment that the order of this Tribunal is under challenge before the Hon'ble High Court of Himachal Pradesh, at Shimla in CWP No. 2299 of 2014 and stay has been granted by the Hon'ble High Court vide order dated 9.4.2014. Mr. Sharma, further submitted that the respondents have tried to mislead this Tribunal by making wrong averment in the written statement as Hon'ble High Court in the indicated case had already uphold the order of this Tribunal by dismissing the CWP NO. 2299 of 2014 at the hands of the respondents on 23.7.2018. This Act of respondents amounts to misleading of this Court by giving false information, by signing written statement on 7.12.2018.

6. Mr. Anshul Bansal, learned counsel for respondents is not in a position to rebut the argument as raised by Mr. Sharma, learned counsel for applicant as noticed above. He simply submits that

since the respondents have already implemented the direction of this Tribunal issued in the case of Painu Ram (supra) (the applicant therein), they will also consider the case of the present applicant in the light of decision rendered in the case of Painu Ram (supra).

7. In the wake of above, we are left with no other option, but to quash and set aside the impugned order. The respondents are directed to consider the case of applicant in terms of the decision in the case of Painu Ram (supra) which has been subsequently upheld by the Hon'ble High Court of Himachal Pradesh in judicial review at the hands of respondents. Let this exercise be carried out within one month from the date of receipt of copy of this order. However, we restrain ourselves from passing of any adverse order against the officer, who has filed the written statement, with false averments, but with caution that in future written statement be filed after checking all the relevant facts, whether an order has been stayed by the Hon'ble High Court or attained finality or not. With this the O.A. stands disposed of. No costs.

(P. GOPINATH)
MEMBER (A)

(SANJEEV KAUSHIK)
MEMBER (J)

Dated: 07.03.2019

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