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CENTRAL ADMINISTRATIVE TRIBUNAL CALCUTTA BENCH

No. O.A. 234 of 2012

Date of order: 7.9.2015

Present : Hon'ble Mr. Justice G. Rajasuria, Judicial Member
Hon'ble Ms. Jaya Das Gupta, Administrative Member

Rajib Mahato,
Son of Sri Shyama Pada Mahato,
Residing at Village and P.O. Atna,
Aged about 21 years, P.S. Baghmundi,
District - Purulia,
Working as GDSBPM, Atna B.O.

.. Applicant

- V E R S U S -

1. Union of India,
Through the Secretary,
Ministry of Communication,
Department of Posts,
Dak Bhawan,
New Delhi - 110 001.
2. Chief Postmaster General,
West Bengal Circle,
Yogayog Bhawan,
Kolkata - 700 012.
3. Superintendent of Post Offices,
Purulia Division, Purulia-723101.
4. The Inspector of Posts,
West Sub-Division,
Purulia.

.. Respondents

For the Applicant : Mr. A. Chakraborty, Counsel
Mr. B.K. Chatterjee, Counsel

For the Respondents : Mr. B.P. Manna, Counsel
Mr. U.P. Bhattacharyya, Counsel

O R D E R (Oral)

Per Mr. G. Rajasuria, Judicial Member:

Heard Ld. Counsel for the parties.

2. This O.A. has been filed seeking the following reliefs:-

"a) For an order quashing and/or setting aside the impugned

memo dated 14.2.2012 made Annexure 'A-5' to this application;

- b) For an order directing the respondents not to interfere with the services of the applicant in the post of GDSBPM, Atna B.O.;
- c) For an order directing the respondents to produce the entire records relating to this case;
- d) To pass such other or further order or orders as to this Hon'ble Tribunal may deem fit and proper;
- e) For costs of an incidental to this application.

3. At the outset itself we would like to detail and delineate, express and expatiate that indebutably and indisputably the germane facts would run thus. The respondent/Postal Department conducted selection process for the post of GDSBPM and in that process the applicant was selected and appointed, as such, in GDSBPM. Subsequently it so happened that the Postal Department vide order dated 14.2.2012 (A-5) terminated the services of the applicant. Challenging and impugning the said order, the persons similarly circumstanced like the applicant preferred several O.A.s and in that similar orders were passed to the effect that those applicants should be reinstated in service with full back wages because their services were not terminated adhering to the principles of natural justice. One such case is O.A. No. 277 of 2012 and in that the order passed was on 24.1.2013 and the operative portion of it would run thus:-

"9. The short point is to be determined here is whether an appointment which is made can be cancelled without any opportunity of hearing or not. The observation of the Hon'ble Apex Court in the case of Basudeo Tiwary (supra) is absolutely clear:-

"Non-arbitrariness is an essential facet of Article 14 pervading the entire realm of State action governed by Article 14. Natural justice in turn is an antithesis of arbitrariness. It therefore follows that audi alteram partem which is facet of natural justice is a requirement of Article 14. In the sphere of public employment, it is well settled that any action taken by the employer against an employee must be fair, just and reasonable which are the components

of fair treatment. The conferment of absolute power to terminate the services of an employee is an antithesis of fair, just and reasonable treatment."

The respondents failed to indicate any such notice as such the impugned order of Termination is illegal therefore liable to be quashed accordingly it is quashed.

10. As such, O.A. is allowed the impugned order dated 14.2.2012 is quashed the applicant be reinstated, however she will not be entitled to any back wages. In case there is any procedural irregularity in selection the respondents are at liberty to pass a fresh order after following the due process of law. No order as to costs."

4. Whereupon it appears that the respondent authorities filed a WPCT in those matters and got similar orders. One such WPCT is 417 of 2013 and there an interim order has been passed which run thus:-

WPCT No. 417 of 2013

Mrs. Asha G. Ghutghutia,
Mrs. Sayantani Shaw (Samanta)

.. For Petitioners

Mr. D.N. Chatterjee
Mr. Madhusudan Mondal

.. For Respondent

This Writ Petition has been filed challenging the judgment and order dated 4th February, 2013 passed by the Central Administrative Tribunal, Calcutta Bench whereby the learned Tribunal was pleased to set aside the impugned order passed by the authority concerned in respect of the three employees including the respondent herein. Learned Tribunal also directed the authority concerned to reinstate the employees concerned forthwith with all consequential benefits.

Having heard the Learned advocate of the respective parties and on examination of the impugned order passed by the learned Tribunal, we are of the opinion, that the matter should be examined in further details. Therefore, hearing of this matter stands adjourned till 3rd December, 2013.

In the meantime, the authority concerned, namely, the petitioners herein are directed to reinstate the respondent in service forthwith along with no further step is to be taken for payment of consequential benefits to the respondent concerned in terms of the order passed by the learned Tribunal."

[Handwritten signature]

5. Ld. Counsel for the respondents would also reiterate the aforesaid factual position and also add further to the effect that the respondent postal authorities in fact reinstated those persons without giving them back wages and other consequential benefits subject to the outcome of the proceedings before the Hon'ble High Court.

6. The point for consideration is as to whether similar order has to be passed in this matter also.

7. Both sides in unison admitted that the earlier order passed by this Bench would hold the field unless the order is stayed by the Hon'ble High Court. The Hon'ble High Court did not stay the order passed by this Tribunal in its entirety but instead directed to reinstate the respondent therein in service forthwith.

8. We are, therefore, of the opinion that similar order has to be passed subject to the outcome of the proceedings in the WPCT pending before the Hon'ble High Court. As such, reinstatement of the applicant is ordered without any back wages and consequential benefits and such reinstatement shall be subject to the outcome of the order passed by the Hon'ble Calcutta High Court in WPCT which is pending before it. Similarly the payment of back wages and consequential benefits shall await the adjudication in the WPCT.

9. Accordingly, the matter is disposed of. No costs.

(Jaya Das Gupta)
MEMBER(A)

(G. Rajasuria)
MEMBER(J)

SP