



CENTRAL ADMINISTRATIVE TRIBUNAL
CALCUTTA BENCH

No. O.A. 350/01833/2015

Date of order: 4.2.2016

Present: Hon'ble Justice Shri Vishnu Chandra Gupta, Judicial Member
Hon'ble Ms. Jaya Das Gupta, Administrative Member

UTTAM KR. SAHOO

VS.

UNION OF INDIA & ORS. (S.E. Railway)

For the Applicant : Mr. B.L. Sahoo, Counsel

For the Respondents : Mr. B.L. Gangopadhyay, Counsel

ORDER (Oral)

Justice Shri Vishnu Chandra Gupta, Judicial Member:

Heard Ld. Counsel for the applicant and Ld. Counsel for the respondents.

2. The petitioner has sought for the following reliefs:-

"8.a. Admit this application; and call for the records;

b. Pass a mandatory order commanding the respondent No. 2 and its subordinates or agent to cancel / withdraw/ rescind the impugned order dated 3rd September, 2015 issued vide Memo No. SER/P-HQ/CC/565/UKS which is at Annexure "K" to the application and upon so doing direct the concerned respondents particularly respondent No. 2 for re-instating the applicant to his service as before as Bunglow Peon in the office of the Senior Divisional Mechanical Engineer, ADRA or

any other suitable place upon due consideration of the application dated 8.10.2014 which is at Annexure "J" to the application by giving weightage to the solemn order passed by the Additional Chief Judicial Magistrate Raghunathpore in G.R. Case No. 114 of 2011 and also quash the order of termination dated 12/13.5.2011 issued vide Memo No. M/OS/Mech./ADRA/1404 which is at Annexure "E" to the application;

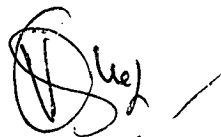
c. Issue a direction upon the respondents to certify and produce the records of the instant case and upon so doing and perusal of the same pass an order in terms of prayer (b) to the application;

d. Costs;

e. Pass such other or further order or orders as Your Lordships may deem fit and proper."

3. The brief facts for deciding this petition are that the petitioner was engaged as a Bungalow Peon under Group "D" category in the Office of Sr. Divisional Personnel Officer (Mech.). An appointment letter has been issued in favour of the applicant. Thereafter on account of a theft committed in the Bungalow, a criminal case has been lodged against him and he has been prosecuted for the same. Before conclusion of the trial the services of the petitioner was dispensed with by an order dated 13.5.2011 (Annexure A-5) against which the petitioner preferred an appeal in the year 2011.

4. The criminal case ended in acquittal on 8.9.2014. Thereafter the applicant moved a representation to the competent authority to reinstate him in



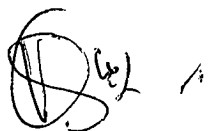
view of the decision passed in the criminal case which has not been disposed of. This Tribunal vide its orders dated 1.6.2015 directed the competent authority to dispose of his representation by passing a speaking and reasoned order. In pursuance thereof the competent authority decided the representation by way of a speaking order annexed as Annexure K at page 76 dated 3.9.2015. Aggrieved by that order the present O.A. has been filed.

5. It has been contended by Ld. Counsel for the applicant that appeal is still pending and has not yet been disposed of. He relied upon in this regard to Annexure A-6, letter written to CPO by the Assistant Personnel Officer (III), mentioning therein that the appeal of Shri Uttam Kumar Sahoo is forwarded to Headquarters for further course of action at their end. This letter is dated 20.12.2012, though on the top of the letter it is mentioned as 20.12.2011.

6. The Ld. Counsel further submits that the termination of the petitioner is bad as no opportunity of hearing has been provided and the notice alleged to have been sent to the petitioner was never served upon him.

7. So far as the impugned order is concerned, the points raised before this Tribunal by the Ld. Counsel for the petitioner is wholly irrelevant. As the departmental appeal is pending against the order of termination of the services of the petitioner, so this question may be considered in the appeal and not by this Tribunal. If the Tribunal enters into the controversy it would be prejudicial to the parties and the decision on the appeal will be materially affected.

8. So far as the impugned order is concerned it is mainly based on the



ground that the petitioner was held careless and his services were dispensed with on the ground of his conduct. Hence, the question of reinstatement cannot be arose at all unless the order of termination of services of petitioner is set aside by any competent authority.

9. In view of the above, we do not find any material irregularity or illegality in passing of the impugned order. However, it would be appropriate while deciding this petition that the appellate authority be directed to dispose of the appeal of the appellant within a time frame and as such this petition is disposed of finally with a direction that the appellate authority shall dispose of the appeal of Shri Uttam Kumar Sahoo within a period of three months from the date of production of a certified copy of this order. The appellate authority after giving an opportunity of hearing to the petitioner will dispose of the appeal finally and communicate the decision taken to the petitioner.

10. The O.A. is, accordingly, disposed of. No further order is required to be passed in the matter.

(Jaya Das Gupta)
MEMBER(A)

(Vishnu Chandra Gupta)
MEMBER(J)

SP