



CENTRAL ADMINISTRATIVE TRIBUNAL
KOLKATA BENCH
KOLKATA

O.A/350/1099/2012

M.A/350/006/2013

Date of Order: 17.7.19

Coram: Hon'ble Ms. Bidisha Banerjee, Judicial Member
Hon'ble Dr. (Ms.) Nandita Chatterjee, Administrative Member

Shri P. Nageswar Rao, S/o P. Upendra
Rao, aged about 33 years, residing at
503/405, Ward No. 19, Subhaspally, Post –
Kharagpur Paschim Medinipur, Pin – 721.

--Applicant.

Vs.

1. Union of the India
through the General Manager,
South Eastern Railway,
Garden Reach, Kolkata – 700043.
2. The Dy. Chief Personnel Officer (Recruitment)
South Eastern Railway,
Garden Reach, Kolkata – 700043.
3. The Workshop Personnel Officer,
South Eastern Railways, Kharagpur,
P.O – Kharagpur, Dist. Paschim Medinipur
721301.
4. The Assistant Personnel (Workshop),
S.E. Rly., Kharagpur,
P.O – Kharagpur, Dist. Paschim Medinipur
721301.

--Respondents.

For The Applicant(s): Mr. A. Chakraborty, counsel
Ms. P. Mondal, counsel

For The Respondent(s): Mr. M. K. Bandyopadhyay, counsel

O R D E R

Per: Ms. Bidisha Banerjee, Member (J):

This application has been preferred by substitute Bungalow Peon, discharged
from service in the year 2005.

He has sought for the following relief:

"1. The Order dated 3.12.2010 issued by Dy. CPO (Recruitment), S.E. Rly., Garden Reach can not be tenable in the eye of law as the representation filed by him on 13.9.2010 was not considered properly.

2. Office Order dated 17.2.2005 by the Assistant Personnel Officer (W) KGP can not be tenable in the eye of law and as such the same may be quashed and to reinstate the applicant in service."

2. The applicant has pleaded that his termination was without any prior intimation on the ground of unsatisfactory work and unauthorized absence while working as Bungalow Peon vide office order dated 17.2.2005, with the approval of the Competent Authority, in terms of Rule 301 of the Indian Railway Establishment Code Vol-1 (1985 edition), and has claimed that his termination was illegal.

3. The applicant has cited a decision of this Tribunal, where in an identical case; the Bungalow Peon was reinstated as the termination order was issued by the same officer to whom he was attached.

This Tribunal opined and ordered as under:

"Annexure A1 to the applicant is a copy of the order dt. 27.6.07 appointing the applicant as substitute Bungalow Peon attached to Shri S. K. Mishra, Dy. CMM. He was granted temporary status vide letter dt. 12.2.08. The services of the applicant were terminated vide letter dt. 22.10.09 due to his unauthorized absence. The applicant thereafter preferred OA 1083 of 2009 which was disposed of on 9.2.10 with a direction to the respondents to consider the representation. The impugned order rejecting the representation has been passed by Shri S. K. Mishra, Dy. CMM.

3. The above fact would show that the Ld. Dy. CMM has acted as a judge in his own cause. In this view of the matter the request of Mr. A. K. Dutta, ld. counsel for the respondents for time to file reply is rejected.

4. The impugned order is quashed and set aside. O.A is allowed. The applicant would be entitled consequential benefits. We, however, grant liberty to the competent authority to proceed in accordance with law and to pass necessary order."

4. In the instant case, the order was issued by APO (W)/KGp. The applicant has pleaded that Dy. CME (Workshop), S.E. Rly., Kharagpur

terminate the service on the ground of unsatisfactory work and unauthorized absence. He has acted in his own cause, which is not a fact.

5. That apart, none other decisions has been cited by the applicant that would come to his aid. On the contrary, respondents have cited a full Bench decision in **Vikash Majhi (O.A 595/2012)** and a decision of Hon'ble Jharkhand High Court in **W/P(S) No. 5761 of 2003**, which does not support his cause.

6. The O.A is therefore dismissed. M.A consequently stands disposed of. No costs.

(Nandita Chatterjee)
Member (A)

(Bidisha Banerjee)
Member (J)

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