

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL AT JABALPUR

OA NO. 23/296 /2019.

Applicant : Santosh Kumar Bhashkar

Versus

Respondents : Union of India and others.

APPLICATION UNDER SECTION 19 OF THE ADMINISTRATIVE
TRIBUNAL ACT, 1985

PARTICULARS OF THE APPLICANTS:

Santosh Kumar Bhashkar,
S/o Shri Johan Ram Bhashkar,
DOB- 14.10.1965,
Un-employed
R/O- 87/E, Risali Sector, Bhilai,
District-Durg -490006(CG),

PARTICULARS OF THE RESPONDENTS:

1. Union of India,
Through its Secretary,
Ministry of Steel & Power
Udyog Bhawan Dr. Maulana Azad Road
New Delhi-110011
2. Chairman and Managing Director
Steel Authority of India Ltd.
Ispat Bhawan, Lodhi Raod
New Delhi-110001
3. Chief General Manager(Personnel)
Steel Authority of India Ltd.
Bhilai Steel Plant, Bhilai, District- Durg (CG)-490001



ORDER SHEET

No. Of Adjournment : 1

COURT NO. : 1
08.05.2020
O.A./203/296/2020


SANTOSH KUMAR BHASHKAR
-V/S-
STEEL AUTHORITY OF INDIA

ITEM NO:1 (MAIN)
FOR APPLICANTS(S) Adv. :

Shri Vijay Tripathi, learned counsel for applicant appears through Video Conferencing

FOR RESPONDENTS(S) Adv.:

Shri Ashish Surana, learned counsel appears through Video Conferencing on receiving the advance copy on electronically.

Notes of The Registry	Order of The Tribunal
	<p>The Bench welcomed the participants to this hearing through Video Conferencing method, which is the first to be held by Central Administrative Tribunal.</p> <p>The applicant obtained his regular job with the respondent-department on 22.03.1995 on the basis of belonging to "Mahar" caste which was recognised as Scheduled Caste. He has been receiving regular promotions throughout his career.</p> <p>A complaint was lodged in the year 2003 against the applicant and 17 other persons of the same village alleging therein that appointment has been obtained on the basis of forged caste certificate. The matter was referred to High Power Caste Scrutiny Committee on 06.02.2013.</p> <p>The High Power Caste Scrutiny Committee has issued its report on 25.01.2020 (Annexure A/3) wherein the caste certificate issued to the applicant has been cancelled.</p> <p>Accordingly, the respondent-department cancelled the appointment of the applicant vide order dated 04.03.2020 (Annexure A/1).</p> <p>The applicant challenged the report of the High Power Caste Scrutiny Committee in WP(C) No. 842/2020 before Hon'ble High Court of Chhattisgarh. Vide its order dated 05.03.2020 (Annexure A/4), Hon'ble High Court of Chhattisgarh has stayed the effect and operation of the said report.</p> <p>The applicant again approached Hon'ble High Court of Chhattisgarh in WPS No.1718/2020 challenging his termination order dated 04.03.2020 (Annexure A/1). However, Hon'ble High Court vide its order dated 16.03.2020 (Annexure A/5) dismissed the petition because such a challenge would be amenable before this Tribunal.</p> <p>The applicant has submitted his representation dated 20.03.2020 (Annexure A/6) to the respondents to take him back in service.</p>

The applicant has prayed for the following interim relief:

"9. INTERIM RELIEF

That during pendency of the present original application the effect and operation of the order dated 04.03.2020 (Annexure A/1) may kindly be stayed and the respondents may kindly be directed to permit the applicant to work as Coil Binder cum Processing Hand (S-7 Grade) in the interest of justice."

Learned counsel for the applicant submitted that the only reason to issue impugned order dated 04.03.2020 (Annexure A/1) is the report of High Power Caste Scrutiny Committee dated 25.01.2020 (Annexure A/3), operation of which has been stayed by Hon'ble High Court of Chhattisgarh on 05.03.2020 (Annexure A/4). Since the very basis of the impugned order is not existing, the impugned order liable to be set aside.

It was also highlighted that no termination orders have been issued for similarly placed persons, whose caste certificate was cancelled by High Power Caste Scrutiny Committee and stayed by Hon'ble High Court of Chhattisgarh.

Learned counsel for the respondents submitted that Hon'ble High Court of Chhattisgarh in its order dated 05.03.2020 (Annexure A/5) have stated that *"there shall be further stay of the effect and operation of the impugned order dated 25.01.2020 until further orders"*. The words *"further stay"* means that the stay order is prospective in nature. This word *"further"* is not present in the orders of Hon'ble High Court of Chhattisgarh in case of similarly situated persons (colly. Annexure A/7).

Further, he emphasised that the interim relief prayed for is same as final relief in para 8.3. This is not permissible, as has been held in several judgments, given below:

- (i) *K.L. Sodhi vs. Union of India and others* passed by co-ordinate Chandigarh Bench of this Tribunal in O.A. No.060/00498/2015 decided on 30.06.2015 [2015 SCC OnLine CAT 862]
- (ii) *State of Uttar Pradesh and others vs. Sandeep Kumar Balmiki and others* (2009) 17 SCC 555.
- (iii) *State of Haryana vs. Suman Dutta* (2000) 10 SCC 311.
- (iv) *Union of India and others vs. Modiluft Limited* (2003) 6 SCC 65.

He also cited the judgment of Hon'ble Apex Court in the matters of *Chairman and Managing Director, Food Corporation of India and others vs. Jagdish Balram Bahira and others* (2017) 8 SCC 670 wherein Hon'ble Supreme Court has held that obtaining public appointment through false certificates cannot be allowed to perpetuate.

We have considered the matter.



We are ~~www.livelaw.in~~ should not be the same as the final relief. In the present case, para 8.3 of O.A, reads as under:

"8.3 Direct the respondents to reinstate the applicant with all consequential benefits".

Comparing this and para 9 of O.A. quoted above clearly indicates that "consequential benefits" words are missing in para 9. The impugned order mentions about non payment of CPF, Gratuity, Pension, SESBF and Leave Encashment etc. Even if the applicant is taken back in service (as prayed in the interim relief), these retiral payments are not to be paid.

Therefore, we do not find interim relief prayed for as same as final relief.

The facts of this O.A. are different from *Jagdish Balram Bahira* (supra). The applicant in instant O.A. is not asking for continuation of job, which he obtained through false certificate.

Perusal of the orders of all the orders of Hon'ble High Court of Chhattisgarh of similarly placed persons (Annexure A/1 and Colly. Annexure A/7) does not indicate any special significance of the words "further".

It is undisputed fact that the impugned order dated 04.03.2020 (Annexure A/1) of cancelling the appointment has been issued on the basis of the report dated 25.01.2020 (Annexure A/3) of High Power Caste Scrutiny Committee. Further, the effect and operation of the said report of High Power Caste Scrutiny Committee has been stayed by Hon'ble High Court of Chhattisgarh vide order dated 05.03.2020 (Annexure A/4).

If the foundation of a building is removed, the whole structure collapses.

In our considered opinion, the applicant is entitled to grant of interim relief prayed for, as the report of the High Power Caste Scrutiny Committee has been stayed by Hon'ble High Court of Chhattisgarh.

Accordingly, we grant the relief prayed for. However, this interim relief will be automatically vacated in case the stay granted by Hon'ble High Court of Chhattisgarh is vacated.

The respondents are directed to file reply within four weeks to this O.A., a copy of which has already reached them electronically.

List the matters for orders on 15.06.2020 at Jabalpur.

Issue certified copy.



Sd/-

के.प्र.अ. प्रक्रिया नियमावली क 11(4) के अंतर्गत निःशुल्क प्रतिलिपि

Sd/-

(RAMESH SINGH THAKUR)
MEMBER (J)

(NAVIN TANDON)
MEMBER (A)

TRUE COPY

To
Shri vijay Tripathi
Advocate.

C.A.T. Jabalpur

kc

Section Officer
Central Administrative Tribunal
Jabalpur Bench, Jabalpur
08/5/2020

Page 2 of 2