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IN THE HIGH COURT OF JUDICATURE AT BOMBAY***ORDINARY ORIGINAL CIVIL JURISDICTION******WRIT PETITION No. 1775 OF 2002***

Union of India ...Petitioner
Vs.
G. Kulasekhara Pandian ...Respondent

WITH***NOTICE OF MOTION No. 473 OF 2011
IN******WRIT PETITION No.1775 OF 2002***

Union of India ...Petitioner
Vs.
G. Kulasekhara Pandian ...Respondent

WITH***WRIT PETITION No. 1765 OF 2002***

Union of India ...Petitioner
Vs.
Munshi Sha ...Respondent

WITH***WRIT PETITION No. 1766 OF 2002***

Union of India ...Petitioner
Vs.
V. Balasubramaniam ...Respondent

WITH***WRIT PETITION No. 1771 OF 2002***

Union of India ...Petitioner
Vs.
M. Venkatesan ...Respondent

Mr. Suresh Mumar a/w. Ms. Sangita Yadav for the Petitioner
Mr. Ramesh Ramamurthy for the Respondents

***CORAM : V. M. KANADE &
REVATI MOHITE DERE, JJ.***

DATE : DECEMBER 2, 2016

P.C. :

1. Heard the learned counsel appearing on behalf of the Petitioner and the learned counsel for the Respondents.
2. The Petitioner – Union of India has filed the petitions, challenging the order passed by the Central Administrative Tribunal, who was pleased to allow the original applications filed by the Respondents herein, directing the Union of India to reinstate the Applicants before the Tribunal and to pay fifty percent of the back wages from the date of their removal from services.
3. Brief facts are relevant for the purpose of deciding the petitioner. The Applicants – Respondents herein who were working initially as Casual Labours on the Central Railway was given appointment as Assistant Pointsmen on 24.12.1986 under the senior Divisional

Electrical Engineer (Traction) Kurla Car Shed. After almost seven years, an inquiry was conducted by the Vigilance Department regarding the manner in which appointment of the Respondents was made. During the course of this inquiry, on 17.12.1993, the statements of the Respondents herein were recorded by the Railway Protection Force Constable as per the dictation of the Vigilance Officer in his handwriting. An inquiry thereafter was held against the Respondents under charge-sheet dated 26.8.1996 and their services were terminated and the Respondents were then removed from service on 3.11.1997. Against this order, the Respondents filed appeals before the Appellate Authority. The appeals, however, were not decided and therefore, the Respondents approached the CAT. Their applications, however, were allowed and the Tribunal directed that the Applicants before it should be reinstated by payment of 50% back wages.

4. Being aggrieved by the said order, the present Petitioner – Union of India has filed the present petitions.

5. We have heard Shri Suresh Kumar for the Petitioners and Shri Ramesh Rammurthy for the Respondents in all the petitions at length.

It is submitted by Shri Suresh Kumar, learned counsel appearing on

behalf of the Petitioner that the statements given by the Respondents to the Railway Protection Force Constable were the confessions and, therefore, the Tribunal could not have set aside the order passed by the Disciplinary Authority. Reliance was placed on two judgments of the Apex Court viz. (i) in the case of **J.D. Jain Vs. Management of State Bank of India and Anr. [(1982) 1 Supreme Court Cases 143]**, (ii) in the case of **Delhi Transport Corporation Vs. Shyam Lal [(2004) 8 Supreme Court Cases 88]** and other judgments of the Bombay High Court. It is submitted that the confessions given by the delinquent employees are admissible and the Tribunal has failed to take into consideration the said valuable evidence.

6. We have gone through the judgment and order passed by the Central Administrative Tribunal. The Tribunal has given cogent reasons before recording its finding. It is not in dispute that the alleged confessions which were given by the Respondents, were reduced in writing by the RPF Constable and were dictated by the Vigilance Officer, were never produced in the inquiry nor the copies were given to the Respondents. It is a settled position in law that such evidence is not an admissible evidence on that basis. Hence, we do not see any infirmity or illegality in the order passed by the Tribunal. The

judgments on which reliance was placed by the learned counsel for the Petitioner will not apply to the facts of the present case. Hence, writ petitions are dismissed. Order passed by the Central Administrative Tribunal is confirmed. Notice of motion No. 473 of 2011 in WP No. 1775 of 2002 does not survive and is disposed of.

REVATI MOHITE DERE, J.

V.M. KANADE, J.