

W.P.C.T. No. 184 of 2025

**Dharmendra Prasad
Vs.
Union of India & Ors.**

Mr. Anil Kr. Gupta,
Mr. Rahul Arya (through VC),
Mr. Yogesh Kr. Sharma,
Ms. Priyanka Rajak

...for the Petitioner

1. It is the third round of litigation for the present petitioner. The factual premise is that he was engagement as a substitute Bangalow Peon in between 18.10.2007 to 29.04.2009. The petitioner was thereafter terminated due to unsatisfactory service relying upon the Establishment Rule No.197/2005 Clause C(i), by paying him one month pay in lieu of notice period one month.
2. The petitioner assailed the termination before the Central Administrative Tribunal, Kolkata Bench (hereinafter referred to as the 'C.A.T.') in O.A. No. 1780 of 2009, seeking a direction for reinstatement of his services. During the course of the said proceedings, the petitioner confined his relief seeking a direction from the C.A.T. to the competent authority to consider and dispose of his representation. The C.A.T. passed an order on 05.02.2010 accordingly. Respondent no.3 in the

said proceedings was thus directed to consider the petitioner's representation.

3. Upon consideration of the representation, the authority, having regard to the fact that the petitioner was terminated in view of unsatisfactory service, did not find any scope for reinstatement of the petitioner and rejected the petitioner's claim by an order dated 21.05.2010. This order was again put to challenge by the writ petitioner in O.A. No. 2264 of 2010. In this proceeding, the C.A.T. taking note of the fact that the petitioner had worked for more than a year, but less than three years, did not interfere with the termination order and the O.A. was dismissed.
4. The Order was assailed in a writ proceeding before this Court. In the writ proceedings arising out of W.P.C.T. No. 314 of 2013 filed by the writ petitioner, a submission was advanced on behalf of the petitioner that a Bangalow Peon, like the petitioner who had completed more than one year service but less than three years at the time of termination could be re-engaged as per memorandum dated 26.02.2009. This submission advanced on behalf of the petitioner is recorded in the order of the Court dated 13.08.2013, and reads :-

“Referring to the said memorandum dated 26th February, 2009, learned counsel of the petitioner submits that the retrenched Bungalo Peons who completed more than one year service but less than three years service at the time of termination could be re-engaged.”

5. Relying on such submission, the order of the C.A.T. was set aside and a direction was issued to respondent no.3 to consider the claim of the petitioner for re-engagement as a retrenched Bangalow Peon in terms of the memorandum dated 26.02.2009. The petitioner's claim has again been considered and rejected by an order dated 21.10.2013 passed by the Chief Personnel Officer, South Eastern Railway, again rejecting the petitioner's claim for re-engagement/re-instatement.
6. In view of the order passed by the authority, the writ petitioner preferred a contempt application alleging that the same was in violation of the order passed in W.P.C.T. No. 314 of 2013. The petitioner's contempt application was dismissed on 18.03.2016.
7. The writ petitioner, thereafter assailed the self-same order dated 21.10.2013 passed by the Chief Personnel Officer, before the C.A.T. by filing O.A. No. 1441 of 2016, which has been dismissed by

an order dated 11.07.2025, which is assailed in the present proceedings.

8. It is submitted by the learned counsel for the writ petitioner that since this Court in W.P.C.T. No. 314 of 2013 had directed the authorities to reconsider the petitioner's claim, the order dated 21.10.2013 passed in purported compliance thereof, but reiterating the same reasons for rejection as contained in the earlier rejection dated 21.05.2010 is unsustainable. It was not open to the authorities to reiterate the stand taken by them in the earlier rejection order dated 21.05.2010 in view of the specific direction passed in W.P.C.T. No. 314 of 2013.
9. By an order dated 09.12.2012 passed in OA No. 2264 of 2010, the C.A.T. had dismissed the petitioner's challenge to the rejection dated 21.05.2010, of his claim for reinstatement, by the Chief Personnel Officer. Since this Court in WPCT No. 314 of 2013 set aside the order of the CAT dated 09.12.2012 in OA No. 2264 of 2010, this Court should presume that the order dated 21.05.2010 passed by the Chief Personnel Officer was also quashed, and therefore, it was not open to the Chief Personnel Officer to reiterate the same reasons in the subsequent order dated 21.10.2013 passed in compliance with this

Court's order dated 13.08.2013 passed in WPCT No. 314 of 2013. He, therefore, submitted that the order dated 21.10.2013 passed by the Chief Personnel Officer is unsustainable.

10. We are unable to agree with such submission of the learned Counsel for the petitioner.
11. We find that the petitioner had assailed the rejection dated 21.05.2010 of his claim for reinstatement by the Chief Personnel Officer in O.A. No. 2264 of 2010, which was dismissed after a detailed consideration of the matter. The rejection dated 21.05.2010 was not set aside. In WPCT No. 314 of 2013 which was filed by the petitioner assailing the order of CAT (OA No. 2264 of 2010), the petitioner made a submission that a memorandum dated 26.02.2009 provided for re-engagement of the petitioner. Recording such submission, this Court, therefore, directed the respondent No. 3 to consider the petitioner's claim for re-engagement in terms of the office memorandum dated 26.02.2009. It is under such circumstances that order of the CAT passed in OA 2264 of 2010 was set aside.
12. The earlier rejection dated 21.05.2010 of the petitioner's claim for re-engagement was neither quashed by the CAT in OA No. 2264 of 2010; nor by this Court in WPCT No. 314 of 2013. Therefore,

the submission advanced on behalf of the petitioner that the rejection dated 21.05.2010 by the Chief Personnel Officer can be deemed to have been set aside, in our considered view is unacceptable.

13. The writ Court in WPCT No. 314 of 2013 passed a specific direction to consider the petitioner's claim in light of office memorandum dated 26.02.2009 which has been done. We do not find any infirmity in the consideration accorded by the Chief Personnel Officer in the impugned order dated 21.10.2013. The same has been dealt with by us hereinabove and, therefore, we do not wish to consider the same to avoid repetition.
14. The learned Advocate for the petitioner lastly submits that the order dated 21.10.2013 passed by the Chief Personnel Officer inviolative of the principles of natural justice, and, therefore, it is unsustainable. Submission regarding the order being in violation of principle of natural justice, merits no consideration whatsoever having regard to the premise in which the order was passed by the authority. There is no dispute that the order dated 21.10.2013 was passed in compliance of the orders passed in W.P.C.T. No. 314 of 2013 directing the authorities to consider the petitioner's claim for re-engagement/re-

instatement. The order of the Court did not contemplate any opportunity of hearing to be given to the writ petitioner in this regard. We also find that the authority has considered the petitioner's claim by a reasoned and speaking order.

15. The other submission also that the impugned order dated 21.10.2013 is unsustainable since it reiterates the reasons in the earlier rejection dated 21.05.2010, without taking into consideration the provisions contained in memorandum dated 26.02.2009, in our opinion does not hold any water.
16. Upon going through the memorandum dated 26.02.2009, we find that the same has been issued for 14 (fourteen) persons, other than the writ petitioner who were earlier engaged as Bangalow Peons; and were terminated and retrenched. Since the services of those 14 (fourteen) persons were found to be satisfactory and there was nothing adverse against them, the memorandum provided that they may be re-engaged with approval of the competent authority. The memorandum dated 26.02.2009 is not a policy decision giving right to consideration for re-engagement to a Bangalow Peon who has worked for more than one year and less than three years.

The memorandum has been issued specifically taking into consideration the services of the 14 (fourteen) persons for which the memorandum has been issued; and is confined to the case of these 14 (fourteen) persons.

17. The petitioner's case, on the other hand stood on a different set of facts and circumstances, wherein he was disengaged/terminated on 29.04.2009, having regard to his unsatisfactory service. There is no basis, or scope for the petitioner to claim any parity with the 14 (fourteen) beneficiaries in office memorandum dated 26.02.2009.
18. The C.A.T. has considered the petitioner's claim and rejected the O.A., considering the same to be devoid of any substance in view of the fact that the claim was considered by reasoned and speaking order passed by the authority in compliance with the order passed in W.P.C.T. No. 314 of 2013.
19. Having regard to the facts and circumstances noted above, we find no infirmity in the order dated 11.07.2025 passed by the C.A.T. in O.A. No.1441 of 2016 requiring interference in exercising of extraordinary discretionary jurisdiction under Article 226 of the Constitution of India.

20. The Writ Petition being **W.P.C.T. No. 184 of 2025**
is dismissed.

(Madhuresh Prasad, J.)

(Supratim Bhattacharya, J.)