

20.01.2026
Item No.15
Ct. No.1
KS

WP.CT 17 of 2026
Swastik Sanyal
Vs.
Union of India & Ors.

Mr. Kallol Basu
Mr. Shourjit Dasgupta
Mr. Samik Sarkar
Mr. Vishwarup Acharyya
.....For the Petitioner

PER, SUJOY PAUL, CJ.:

1. Heard learned counsel for the petitioner.
2. In this petition filed under Article 226/227 of the Constitution of India. The petitioner has called in question the legality, validity and propriety of the order dated 10.12.2024 passed by Central Administrative Tribunal, Kolkata Bench, Kolkata (Tribunal) being, O.A. No.350/836/2015.
3. Before the Tribunal, petitioner prayed for following reliefs:-

“(a) To set aside and quash impugned Rule 550(3)(D) of the Indian Railway Establishment code, column-1.

(b) To set aside and quash the impugned Rule 41(1) of the Railway Services (Pension) Rules, 1993.

(c) To set aside and quash impugned letter no. MRTS/E. 345/O/FS/995/SS dt. 20.01.2015 issued by Assistant Personnel Officer for Deputy Chief Personnel Officer, Metro Railway as regards encashment of leave is concerned.

(d) To direct the respondents to grant pension, DCRG and leave salary of 286 days w.e.f. 30.09.2014 with all consequential benefits.

(e) Any other order or orders as the Hon’ble Tribunal deems fit and proper.”

4. During the course of hearing, learned counsel for the applicant therein prayed for reconsideration of case of applicant for withdrawal of his resignation or grant of compassionate allowance. Accordingly, learned Tribunal directed the respondent authorities to consider the case of applicant either for grant of compassionate allowance or for withdrawal of resignation.
5. Learned counsel for petitioner fairly submitted that in furtherance of impugned order of Tribunal dated 10.12.2024, the Department has already passed a rejection order on 19th January, 2025. He submits that the present petition may be entertained because the petitioner has already suffered for several years.
6. We have heard the matter at length. In our considered opinion, the rejection order is a fresh order giving fresh cause of action to the petitioner. In view of Constitution Bench Judgment of Hon'ble Supreme Court in the case of *L. Chandra Kumar Vs. Union of India & Ors.* reported in (1997) 3 SCC 261: 1997 SCC (L&S) 577 : (1997) 105 STC 618 wherein it was held that the High Court cannot act as a Court of first instance, we are unable to accept the argument of

learned counsel for the petitioner. The Court of first instance is indeed, Central Administrative Tribunal.

7. Thus, we deem it proper to dispose of this petition by permitting the petitioner to file original application before the Tribunal. In the interest of justice, it is, however, made clear that it will be open for the petitioner to assail the constitutionality of the rules, which were subject-matter of challenge in O.A. No.350/836/2015 and said point was not decided by the Tribunal.
8. With this observation and without expressing any opinion on merits, petition is disposed of.
9. In addition, all points are kept open for the petitioner, to be raised before the Tribunal.
10. Urgent photostat certified copy of this order, if applied for, be furnished to the parties expeditiously upon compliance of all legal formalities.

(SUJOY PAUL, CJ.)

(PARTHA SARATHI SEN, J.)