

**IN THE HIGH COURT AT CALCUTTA**  
**CONSTITUTIONAL WRIT JURISDICTION**  
**APPELLATE SIDE**

**Present :-**

**The Hon'ble Chief Justice Sujoy Paul**  
**And**  
**The Hon'ble Justice Partha Sarathi Sen**

**WPCT 319 of 2024**

*Chhattu Chakraborty*  
-Vs-  
*The Union of India and others*

For the petitioner : Mr. Indranil Chakravarti  
Mr. Koushik Bhattacharyya

For the respondents/U.O.I. : Mr. Dhrub Surana  
Ms. Ashima Roy Chowdhury

Heard on : 03.02.2026

Judgment on : 03.02.2026

**JUDGMENT (ORAL)**

**SUJOY PAUL, C.J. : -**

1. This petition filed under Article 226/227 of the Constitution of India takes exception to the order of Central Administrative Tribunal dated 16.04.2024 passed in O.A. 330/00332/2014 whereby the original application filed by the petitioner/applicant was dismissed.

**Factual Background:**

2. The petitioner was appointed on 27.09.2013 as "Bungalow Peon" with the South Eastern Railway. The appointment order of the petitioner was admittedly approved by General Manager, South Eastern Railway. The petitioner was put to a show cause notice dated 25.11.2013. the

petitioner submitted his reply. Thereafter by order dated 30.12.2013, his services were terminated with effect from 09.12.2013. This order was passed under the authority of FA&CAO (Admin.), South Eastern Railway, Garden Reach office.

3. Learned counsel for the petitioner submits that the petitioner was appointed by the approval of the General Manager. The allegations were made against him by respondent no.2. The respondent no.2 cannot be a judge in his own cause and terminated the services of the petitioner, more so, when the approval of the competent authority, namely, General Manager is missing. This impugned order is liable to be interfered with. Heavy reliance is placed by learned counsel for the petitioner to another order of Central Administrative Tribunal in O.A. 350/1194/2016 decided on 6<sup>th</sup> July, 2018 (**Narhari Gouda vs. Union of India and others**). Learned counsel for the petitioner submits that this order of Tribunal in **Narhari Gouda** (supra) is based on another previous judgment of Central Administrative Tribunal passed in O.A. 1808 of 2010 (**Deo Kumar Singh vs. Union of India and others**). The said judgment in **Deo Kumar Singh** (supra) was unsuccessfully challenged by Railway Administration before this court in WPCT 330/2010. This court affirmed the order of the Central Administrative Tribunal. Thus, it is clear that the order of termination from service is liable to be interfered with at least for twin reasons, namely,

(i) The respondent no.2 could not have been a judge in his own cause and could not have terminated the services of the petitioner.

(ii) The appointment order of the petitioner is pregnant with the approval of the General Manager, whereas such approval is lacking in the termination order.

4. *Per contra*, learned counsel for the respondents supported the impugned order and submits that when petitioner was put to show cause notice, he admitted the allegations and prayed for an apology. The department passed an order in accordance with law. The petitioner neither before the Tribunal nor before this court raised the question of competence of the authority who had terminated him. Apart from this, he fairly submitted that if the previous order in **Narhari Gouda** (supra) was based on similar questions, the Tribunal had only two options, i.e., either to follow the principles laid down in **Narhari Gouda** (supra) or doubt the said dicta by referring the matter to a larger Bench.
5. No other point is pressed by learned counsel for the parties.
6. We have heard the learned counsel for the parties at length and perused the record. So far the first question regarding becoming judge in his own cause is concerned, it is seen that similar question cropped up before the Tribunal in **Narhari Gouda** (supra). The Tribunal interfered with the termination order on the ground that it is issued by an authority who acted as a judge in his own cause. When the matter

was travelled to this court, this court in WPCT 330 of 2010 opined as under:

*"Nobody could be the judge of his own cause" as prescribed in Latin maxim "Nemo debet esse judex in propria sua causa", is squarely applicable in this case. It is a basic principle of natural justice that a complainant must not be the adjudicator with reference to any cause of action, may be in the field of domestic enquiry issue or in any Court litigation. The said principle has been applied by Apex Court in several matters. Reliance is place to the judgment passed in the case Delhi Financial Corporation - Vs. - Rajib Anand reported in 2004 (11) SCC 625 which has been followed in the case Crawford Bayley and Company and others - Vs.-Union of India and others reported in 2006 (6)SCC 25. The parameters of adjudicating the said maxim are:*

(i) Officer concerned should have personal bias or connection or a personal interest or has personally acted in the matter concerned and/or has already taken a decision one way or the other which may be interested in supporting."

*(Emphasis Supplied)*

7. So far the question of non-approval of General Manager is concerned, the Tribunal in **Narhari Gouda** (supra) recorded as under:

"Firstly, the order of termination should have been issued under the directions of the appointing authority of that is the General Manager of concerned Railways and not by the official with whom the applicant was attached.

Secondly, the Chief Engineer (TP) had submitted his complaints to the CPO, GRC to take further action with regard to the applicant. The SPO (Engg.) issued the final 'termination order. The said termination order should have been approved by the General Manager himself on the recommendations of the CPO of the concerned Railways. The fact that instead of waiting for the General Manager's approval, the Chief Engineer (TP) rushed to issue the termination order is evidently a matter of procedural violation by the respondent authorities.

The orders in WP (S) 5761 of 2003 dated 19.5.2005 of the Hon'ble High Court of Jharkhand as cited by Respondents in their support relates to the applicability of rules and entitlement to show-cause notice prior to termination of the services of the applicant. The instant matter, however, is based on the issue of termination orders by the inappropriate authority as well as by an official who cannot (as held by the Hon'ble High Court of Calcutta in WPCT No.

330/2010) be a judge in his own cause. Hence the issues being distinct, we do not find that the citation furnished by the respondents reinforces their case in this regard.

7. Accordingly, we hereby set aside the termination notice dated 21.4.2015 of the Chief Engineer /TP followed by the final termination order dated 24.4.2015 of the Chief Personnel Officer (Engg.) and we direct the General Manager concerned, who is respondent No. 1. in the instant original application, to examine the records and, if necessary, give an opportunity to the applicant to be heard. Thereafter, having gone through the version of the applicant as well as the complaint of Chief Engineer (TP), to issue the final orders in this regard as per Rules within a period of six weeks from the date of receipt of a copy of this order.”

(Emphasis Supplied)

8. In the instant case, it is not in dispute that petitioner's appointment order was approved by General Manager whereas his termination order does not contain any such approval by the said authority. Thus case of present petitioner is similar to **Narhari Gouda** (supra).
9. Apart from this, another issue that the person terminating the services cannot be a judge in his own cause, is also applicable in the instant case. The Tribunal erred in not following its previous judgment passed in **Narhari Gouda** (supra). Thus, we deem it proper to take decision in the light of the judgment of Tribunal in the case of **Deo Kumar Singh** (supra), affirmed by High Court and also the view taken in the case of **Narhari Gouda** (supra). As a result, we set aside the termination order dated 30.12.2013 and direct the General Manager concerned to examine the records and if necessary, give an opportunity to the petitioner to be heard.
10. The said authority after having heard the petitioner as well as examining the complaint, shall issue a fresh final order in accordance

with law within 6 weeks from the date of receipt of copy of this order.

The treatment of intervening period, i.e., from termination till passing of fresh order will be decided by General Manager while passing the final order.

11. With the aforesaid, the impugned order of Tribunal is set aside.
12. Petition is **allowed** to the extent indicated above.
13. Urgent Photostat certified copy of this judgment, if applied for, be given the parties upon compliance of all necessary formalities.

(Sujoy Paul, C.J.)

I agree.

(Partha Sarathi Sen, J.)

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Calcutta