

6

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH: NEW DELHI

O.A. No. 2569/2002

This the 6th day of February, 2003

Hon'ble Shri Justice V.S. Aggarwal, Chairman
Hon'ble Shri S.K. Malhotra, Member (A)

D.Sargunam son of Shri S. David
aged about 53 years
R/o 89/1, East of Kailash,
New Delhi 1100665.

Working as Administrative Officer
in Central Pollution Control Board, (CPCB),
New Delhi.

....Applicant
(By Advocate : Shri B.S. Mathur)

Versus

Union of India through

1. Secretary
Ministry of Environment and Forest;
Government of India,
Pariyavaran Bhawan, CGO Complex,
Lodi Road, New Delhi-110003.

2. Chairman,
Central Pollution Control Board,
Parivesh Bhawan,
C.B.D. cum Office Complex,
East Arjunagar,
Delhi-110032.

3. Member Secretary
Central Pollution Control Board,
Parivesh Bhawan,
C.B.D. cum Office Complex,
East Arjunagar,
Delhi-110032.

....Respondents
(By Advocate : Shri S.Mohd. Arif)

ORDER (ORAL)

Shri Justice V.S. Aggarwal, Chairman :

By virtue of the present application, Shri D. Sargunam seeks setting aside of the order dated 2.6.1998 and to direct the respondents to extend all the consequential benefits to him including payment of leave travel concession and the payment of interest on the said amount.

VS Ag

2. The impugned order dated 2.6.1998 reads as under:-

"Sh. D. Sargunam, Administrative Officer, remained wilfully absent in an unauthorised manner from duty w.e.f. 15.05.97 to 05.06.97 (22 days). He was given opportunity to submit explanation for the lapse and submit leave application for the above said period latest by 10.03.98. However, he did not submit his leave application.

The explanation submitted by Sh.D. Sargunam, has been considered by the Competent Authority and was not found satisfactory, since it was incorrect and not tenable.

Now, therefore, the period of wilful unauthorised absence, i.e. from 15.05.97 to 05.06.97 is hereby treated as break-in-service of Sh.D.Sargunam, Administrative Officer, and further necessary action is being taken as per rules.

This issues with the approval of the Chairman, Central Board.

Sd/-
(S.P. CHAKRABARTI)
MEMBER SECRETARY"

3. It is abundantly clear from the above that vide the impugned order, because of the alleged unauthorised absence of the applicant for a period mentioned therein, it has been treated as a break in service of the applicant.

4. Learned counsel for the applicant assails the said order on the ground that the rules of natural justice were not followed and an appropriate opportunity was not given to the applicant before the said order was passed.

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5. In the reply filed, the respondents have contested the application, the assertions of the applicant on merits have been controverted, but in addition to that it has been pointed that the present application is barred by time and further that the applicant had earlier filed the application being OA No.2141/2000 in which the applicant did not claim the relief as in the present application and, therefore, he is debarred from filing the present application because the said relief must be deemed to have been waived.

6. So far as the objection pertaining to the question of limitation is concerned, keeping in view the same, we are not dwelling into the merits of the matter. The present application had been filed on 27.9.2002. As already pointed above and remenioned at the risk of repetition, the impugned order is of 2.6.1998. The period of limitation of one year had long expired. There is no misc. application for condonation of delay in filing the present original application and, therefore, the obvious finding is that the application must be taken to be barred by time.

7. Learned counsel for the applicant, however, referred us to the order passed by this Tribunal in the earlier application of the applicant in OA No.2141/2000 decided on 8.11.2001. In paragraph 6 of the said order, this Tribunal had held as under:-

"6. In so far as applicant's other grievances, namely condonation in break in service, LTC claim and

As Ag

9

warning memo are concerned they are not consequential to his main reliefs i.e., promotion as A.O. etc. and are, therefore, hit by Rule 10 CAT (Procedure) Rules. Applicant may pursue this separately if so advised."

8. The above said observation of this Tribunal clearly indicates that this Tribunal had only made pious wish, if the applicant may deem it appropriate, he may take up the present relief by filing a separate application. The Tribunal did not extend the limitation, conscious to the fact that the learned Bench was not competent to do so. In any case, in face of the clear and unambiguous language used, it is obvious that the limitation has not been extended and resulttently, we held that the present application is barred by time.

9. Accordingly, the application must fails and is dismissed.

Amrapali
(S.K. Malhotra)
Member (A)

Agarwal
(V.S. Aggarwal)
Chairman

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