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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

O.A. No.1695 OF 1999
M.A. No.54 OF 2004
M.A. No.55 OF 2004

New Delhi, this the 27th day of April, 2004

HON'BLE SHRI JUSTICE V.S. AGGARWAL, CHAIRMAN
HON'BLE SHRI S.A. SINGH, MEMBER (A)

J.P. Vashista
S/o Shri Raghbir Singh
Aged about 52 years,
Resident of 25/97-98 (A), Gali No.14,
Vishwas Nagar,
Shahdara, Delhi-110032.

And Employed as :
Upper Division Clerk,
In the Intelligence Bureau,
Ministry of Home Affairs,
Government of India,
(Under orders of removal from service)

....Applicant

(By Advocate : Ms. Sangeeta S. Panicker)

Versus

1. Union of India
Through the Secretary,
Ministry of Home Affairs,
Government of India, North Block,
New Delhi-110001.

2. The Director,
Intelligence Bureau,
Ministry of Home Affairs,
Government of India, North Block,
New Delhi-110001.

3. The Joint Director,
Subsidiary Intelligence Bureau,
Ministry of Home Affairs,
Government of India,
2-B, Jalana Dungi, Lawan Mrg,
Jaipur.

.....Respondents

(By Advocate : Shri K.C.D. Gangwani)

ORDER (ORAL)

SHRI JUSTICE V.S. AGGARWAL:-

MA 54/2004 and OA 1695/1999

The applicant by virtue of the present
Original Application seeks quashing of the orders
passed whereby the applicant has been removed from
service.

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2. The facts are not in controversy and can conveniently be delineated.

3. The applicant was serving in the Intelligence Bureau as a Upper Division Clerk. He was absent without leave and an inquiry was conducted and in pursuance thereto, the disciplinary authority removed the applicant from service. He preferred an appeal, which was also dismissed. He filed a revision petition and the revisionary authority vide the order of 25.6.1996 allowed the revision petition of the applicant by noticing the procedural infirmities. Resultantly he had sent the matter back to the disciplinary authority for conducting the proceedings afresh from the stage at which the delinquent was required to submit his defence statement.

4. After the remission of the matter, it has been found that the applicant was absent from the duty but it was not willful absence and the same was because of some personal difficulty of the applicant. The said report was submitted to the revisionary authority who, on 29.5.1998, rejected the revision petition and upheld the decision of removal from service.

5. On an earlier occasion, the applicant's present Original Application was dismissed but subsequently, this Tribunal had recalled the order passed on 2.12.2003.

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6. The applicant seeks amendment of the Original Application through MA 54/2004 contending that inadvertently it was not pleaded that the matter had been remitted to the disciplinary authority and it was the disciplinary authority who had to pass a fresh order the applicant wants to incorporate this plea in the Original Application. The same is being contested.

7. We know that the Code of Civil Procedure does not apply in proceedings before the Administrative Tribunal as per the Administrative Tribunals Act, 1985. However, this Tribunal does have the trapping of the Court and basic principles of natural justice would still apply.

8. Law is well settled. However, late may be the proposed amendment, if it is required in the interest of justice and to decide the rights of the parties, it should be allowed. This is so because the duty of the Court is to determine the rights of the parties and not to punish them for mistakes, if any. This basic fact, therefore, cannot be lost sight of. Keeping in view the aforesaid, we find no reason to disallow the amendment prayed in MA 54/2004.

9. Reverting back to the merits of the Original Application, it is patent from the sequence of events that the revisionary authority in the year 1996 had set aside the order remitting the case back to the disciplinary authority. Thereafter in all fairness,

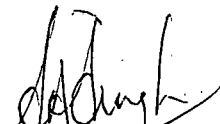
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there was any fresh inquiry, the disciplinary authority should have applied its mind and passed an appropriate order rather than sending the same directly to the revisionary authority. Unfortunately, this procedural lapse has crept in.

10. Resultantly, we allow the present Original Application and quash the impugned orders. It is directed that from the stage of submission of inquiry report, the matter should be put up before the disciplinary authority to pass a fresh order in the matter in accordance with law as deemed appropriate.

11. It is made clear that nothing said herein should be taken as an expression of opinion on the merits of the matter.


(S.A. SINGH)
MEMBER (A)



(V.S. AGGARWAL)
CHAIRMAN

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