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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH: NEW DELHI

O.A. No. 2/1999

New Delhi the 10th Day of August 1999

Hon'ble Smt. Lakshmi Swaminathan, M(J)
Hon'ble Shri S.P. Biswas, Member (A)

Shri Ajaya Kumar,
166 Gulmohar Encl, DDA Flats,
New Delhi-110049 Applicants

(None for the Applicant)

Versus

Union of India thro' Secretary,
Ministry of Urban Affairs &
Employment, Nirman Bhawan,
New Delhi-110 011. Respondents

(By Advocate: Shri Madhav Panikar)

O R D E R (ORAL)

Hon'ble Smt. Lakshmi Swaminathan, M(J)

This OA has been filed by the applicant on 21.12.1998 seeking execution of the final order passed by the Tribunal, Calcutta Bench in Dhruva Jyoti Bose and Ors. Vs. Union of India in (OA 1198/90 which was disposed of on 16.9.1997). The applicant has stated that he was applicant No. 6 in that O.A.

2. The applicant has stated that the Tribunal's order dated 16.9.1997 has to be implemented by the respondents. At ^{that} time he was working in CPWD office at Calcutta and presently, as seen from the verification, in the office of CPWD at New Delhi. In the relief paragraph, he has prayed that the Tribunal may be pleased to Execute the Final Order dated 16.9.1997 without any further delay and grant any other relief.

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3. The respondents in their reply have submitted that for the alleged (non-implementation of the Calcutta Bench) ^{order, 18.} dated 16.9.1997, the applicant, along with the others who were applicants in OA 1198/90 have already filed CP 100/98 which is pending adjudication before the Tribunal (Calcutta Bench). This C.P. has been filed in August 1998. From the annexures to the reply of CP 100/98 it is seen that the present applicant is Petitioner No. 6. The respondents have submitted that they have challenged the Tribunal's order dated 16.9.1997 before the Hon'ble High Court of Calcutta which is also pending. Shri Madhav Panikar has submitted that in view of these facts, the applicant cannot file the present OA before the Principal Bench of the Tribunal, when admittedly he ^{was} one of the Petitioners in CP No. 100/98 before the Calcutta Bench. He has, therefore, submitted that this is an abuse of law and the respondents has prayed that the OA may be dismissed *with costs*.

4. We have carefully considered the above facts, pleadings and submissions made by the learned counsel for Respondents.

5. This OA has been filed by the applicant in December 1998 after he, along with the other applicants in OA 1198/90 have filed CCP 100/98 before the Tribunal (Calcutta Bench) in August 1998. The learned counsel for respondents have submitted that CCP is still pending adjudication

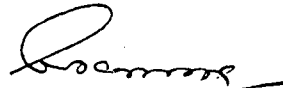
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before the Calcutta Bench of the Tribunal. Apart from that, we also note that the respondents have filed Writ Petition before the Hon'ble Calcutta High Court against the Tribunal's order dated 16.9.1997. The only prayer made by the applicant in this application is that a direction may be given to the respondents by way of executing the final order dated 16.9.1997 without any further delay. It might be a fact that the applicant was residing at Calcutta at the time of filing the OA 1198/90 and he is at present posted in the office of CPWD, New Delhi. However, we cannot ignore the fact that he is one of the petitioners in CCP 100/98 which has been filed in Calcutta Bench of this Tribunal for non-implementation of the order dated 16.9.1997. In view of this fact, we see force in the contentions of the learned counsel for the respondents that the present application filed by the applicant is an abuse of the process of law (see the observations in Union of India & Ors. Vs. A.P. Chandrasekharan Elayodan 1995(31) ATC 562) as he has filed this OA for the same relief viz., for implementation of the Tribunal's order dated 16.9.1997 which is already subjudice before the Tribunal in the Calcutta Bench. Learned counsel for the respondents has also submitted at the Bar that the Hon'ble Calcutta High Court has since stayed the operation of the Tribunal's order dated 16.9.1997 and there is, therefore, no question of implementing the order at this stage. This, in any case, is the subject matter of adjudication before the Tribunal

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in CCP 100/98 as well as in the Writ Petition pending before the Hon'ble Calcutta High Court to which he is also a party.

5. In view of the above facts and circumstances of the case, the OA has to be dismissed and we do so. Having regards also to the particular facts of the case, we are also of the view that this would be a fit case to impose costs of Rs. 1,000/- against the applicant and in favour of the respondents.


(S.P. Biswas)
M(A)


(Smt. Lakshmi Swaminathan)
M(J)

Mittal