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CENTRAL ADMINISTRATIVE TRIBUNAL:PRINCIPAL BENCH

OA.No.2312 of 1998

New Delhi, this 13th day of August,1999

HON'BLE SMT. LAKSHMI SWAMINATHAN, MEMBER(J)

Goving Singh, LDC
General Branch Hqrs. Office
ESI Panchdeep Bhavan
Kotla Road
New Delhi-110002. ... Applicant

By Advocate: Shri B.Narain

versus

Union of India, through
Director General
Employees State Insurance Corporation
Panchdeep Bhavan
New Delhi-110002. ... Respondent

By Advocate: Shri G.R.Nayyar

O R D E R (ORAL)

Smt. Lakshmi Swaminathan, M(J)

Heard the learned counsel for the parties.

2. The relief prayer of the applicant in this OA reads as follows:-

"In view of the facts and grounds for Relief enumerated in paragraph 4 & 5 above it is respectfully prayed that the impugned order dated 8.7.94 be quashed being void and ab initio and expunge the adverse/critical remarks contained in the impugned order dt. 29.4.94 being biased and prejudicious."

The applicant has also prayed for restoration of increments with arrears.

3. The learned counsel for the parties have submitted that the applicant had filed earlier OA.1818/96 in the Tribunal which was disposed of on 29.5.97 as premature as the applicant had not availed of statutory remedies as were available

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to him. Learned counsel for the respondent also submitted that in pursuance of the Tribunal's aforesaid order, the applicant had filed a statutory appeal by letter dated 14.7.97 which had been disposed of on 26.3.98 (Annexure R-1). He has, therefore, submitted that this impugned Memorandum has not been challenged in the OA as the prayer clause itself indicates that the impugned orders are those dated 8.7.94 and 29.4.94. ~~He~~ ^{has} also submitted that even the applicant has not exhausted all statutory remedies by way of second appeal as provided under Employees State Insurance Corporation (Staff and Conditions of Service) Regulations, 1959.

4. Learned counsel for the applicant, however, submitted that in pursuance of the Tribunal's order dated 29.5.97 (copy placed on record) the applicant had filed an appeal and after waiting for six months within which period no reply has been filed by the respondents, he has filed this OA on 24.11.98. From the above facts it will be seen that the applicant, as stated ^{by his Counsel}, has filed the appeal on 14.7.97 and has again filed this application without waiting for the reply to the appeal. In any case, the relief prayed for by the applicant shows that he is only interested in having the impugned order passed on 8.7.94 quashed, but does not mention the Memorandum dated 26.3.98 which has been passed during the pendency of this OA.

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5. In view of the facts and circumstances of the case, the OA is dismissed, leaving it open to the applicant to exhaust further statutory remedies as are available to him under law and file fresh OA, if he is so advised. in case any order is passed by the respondents of which he is aggrieved.

No order as to costs.

Lakshmi Swaminathan
(Smt. Lakshmi Swaminathan)
Member(J)

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