

(2)

Central Administrative Tribunal
Principal Bench, New Delhi

O.A.No.613/95

New Delhi this the 24th day of April, 1995.

Hon'ble Shri J.P. Sharma, Member(J)
Hon'ble Shri B.K. Singh, Member(A)

P. Ravindranath
PS to Addl Economic Adviser
Room No.249, Economic Division
Deptt of Economic Affairs
Ministry of Finance,
North Block, New Delhi. ...Applicant

(By Advocate : Shri A.K. Mahajan)

VERSUS

UNION OF INDIA, THROUGH

The Secretary,
Ministry of Finance,
North Block,
New Delhi-110001. ... Respondents

(By Advocate : None)

JUDGEMENT (ORAL)

(Hon'ble Shri J.P. Sharma, Member (J)).

Shri P. Ravindranath ^{was} terminated by the respondents by the Order dated 16.11.84 when he was temporary employee in the Grade of Stenographer 'C' having joined the post on 23.5.80. He was posted to the department of Revenue in the Ministry of Finance. Due to certain peculiar circumstances i.e. as the applicant was afflicted by mental depression he could not discharge his duty and remained out of duty from 18.10.1982, and he joined on 8.6.1983. He again is said to have become the victim of the same circumstances and alleged to have suffered illness from 26.07.83. Since he was an unconfirmed employee without a lien on permanent basis he was governed by CCS (Temporary Service)

(2)

Rules, 1965. The services, therefore, were terminated under Rule 5(1) of CCS (TS) Rules, 1972 by the order dated 16.11.1984. The applicant assailed the said order before CAT Madras Bench and the Madras Bench, CAT upheld the order of termination dt 16.11.1984. Thereafter, the applicant filed SLP before the Hon'ble Supreme Court against the decision of the Madras CAT Bench on 2.5.86 passed in O.A.306/86. That Special Leave Petition No. 8308/89 was disposed of by the Hon'ble Supreme Court by the order dated 26.10.87. No notices were issued to the respondents but the Supreme Court passed an order that the government shall consider whether any concession can be shown to the applicant on compassionate grounds. It was also further observed that government may also consider whether he can be rehabilitated by giving some alternative employment if found fit for that purpose. The Ministry of Finance by the Order dated 2.5.88 passed an order purported to be under Rule 5(2)(a) of the CCS (TS) rules, 1965 for giving an appointment to the applicant by way of reinstatement to the same post of Stenographer Grade 'C' of the CSSS, and passing a specific order that the intervening period between the date of termination of his service and the date of his reinstatement shall be treated as 'dies non'.

l

(3)

The applicant joined as Stenographer Grade 'C' on 23.5.88. Thereafter, the applicant made certain representations that the period which has been treated as dies non may be treated as leave of any kind due to the applicant so that he may get the benefit of this intervening period when he was out of duty, not on the rolls of respondents. His representation has been decided by the order 4.2.94. He has made another representation one after another and thereafter he filed this application in March, 1995. We heard the learned counsel for the applicant Shri Mahajan on 4.4.95 when the case was adjourned for 17.4.95. On 17.4.95 it was adjourned for today. We have considered the arguments advanced by the applicant's counsel for admission. The learned counsel argued that a notice be issued to the respondents in view of the order dated 26.9.91 where the government of India has referred to the fact that the President be pleased to appoint Sh. P. Ravindranath a temporary Personal Assistant of CSSS, Cadre of the Ministry of Finance, substantively to Personal Assistant Grade of the same services in the same cadre w.e.f. 1.6.84. We have gone through this Memo of dated 26.9.91. It appears that it has also been pointed out that the Stenographer Grade 'C' designation sometime has been changed to Personal Assistant Grade, The learned counsel for the applicant has also referred to Rule 27 of CCS (Pension) rules 1972 which refers to the interruption in service.

↓

(3)

The reliefs claimed by the applicant in this application are that the order dt 4.2.94 by the respondents be set aside and the respondents be directed to treat the period from 16.11.84 to 25.5.88 as has been an extraordinary leave instead of 'dies non'. We have to see whether any prima facie case is made out under the provisions of Section 19 subclause 3 of the A.T. Act, 1985. The order dt 4.2.94 (Annexure A-5) passed by the respondents prayed for to be quashed and set-aside is nothing but an order which is passed on the representation of the applicant which he has preferred in 1993 where the applicant has joined on 22.5.88, as a gesture of compassion and maganimity. The applicant has challenged that order of 2nd May, 1988 which has been passed under the provision of rule 5 (2) (b) of CCS (TS) Rules 1965. A perusal of rule 5 (2)(a) of the said rules goes to show that if an order of termination has been passed under the provisions of rule 5(a) of the aforesaid rules, the authority will also pass order with respect to treating the intervening period from the date of termination of service to the date of reinstatement to the service.

The applicant has accepted the order dated 02.5.88. Now he wants to raise this issue of a part of the above order which is complementary to the other part giving him an appointment after termination of services. The applicant had been terminated from services by


dc

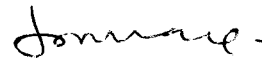
(5)

the order of the Ministry of Finance, Govt. of India dated 29.11.1984 and that order has been upheld by the Madras Bench of the Tribunal. The Hon'ble Supreme Court did not interfere in the SLP 8308/89. This Tribunal cannot again re-adjudicate the matter and the issues stand completely decided by the final order of the Supreme Court. We therefore find that no issue is involved for judicial review.

The learned counsel for the applicant emphatically and fervently pressed that at least a notice be issued to the respondents. We have sympathetically considered this aspect also. It is not a matter of course that in every case notice be issued when there is no material or in any way an issue not at all material is required to be decided as said above. We, therefore, do not accept this contention also.

In view of this, we find that no prima facie case is made out and the application is dismissed at the admission stage itself.


(B.K. Singh)
Member (A)


(J.P. Sharma)
Member (J)

SSS