

CENTRAL ADMINISTRATIVE TRIBUNAL
Principal Bench

O.A. No. 1843 of 1996
M.A. No. 2070/96 & M.A. No. 2084/97

&
O.A. No. 2447 of 1996

New Delhi, dated the 5th February, 1998

HON'BLE MR. S.R. ADIGE, VICE CHAIRMAN (A)
HON'BLE MRS. LAKSHMI SWAMINATHAN, MEMBER (J)

Mohd. Zahir Khan,
S/o late Shri Mohd. Khalil Khan,
R/o Abdul Majid Building,
SWIFT CARGO MOVERS,
Bhadoli, U.P.

Presently

1, Mirdard Road,
Makki Masjid, Menhdiyan,
New Delhi-110002.

.... Applicant

(In Person)

VERSUS

1. Union of India through
the Secretary,
C.B.E.C.,
Ministry of Finance,
Jeevan Deep Building,
New Delhi.

2. Collector of Central Excise,
I.P. Estate,
New Delhi-110002.

3. Addl. Collector (P&E),xcise,
Central Excise Collectorate,
M.G. Marg,
Allahabad - 1.

..... Respondents

(By Advocate: Shri R.R. Bharti)

JUDGMENT

HON'BLE MR. S.R. ADIGE, VICE CHAIRMAN (A)

As these 2 O.As involve common question
of law and fact they are being disposed of by this
common order.

2. In O.A. no.1843/96 applicant impugns (i)
respondents order dated 24.12.91 and prays for
being taken on duty/payment of salary for two
years.

- (ii) orders served on him on 1.11.89 withholding three increments with cumulative effect;
- (iii) seeks pay and allowances at Delhi rates from 12.10.88 till 3.1.92;
- (iv) return of Rs.5000/-; and
- (v) prays for costs.

In O.A. No.2447/96 applicant impugns

- (i) Orders dated 23.3.92 sanctioning him various kinds of leave from 6.10.88 to 25.11.91;
 - (ii) Order dated 27.3.92 sanctioning him leave for 26 days.
 - (iii) pay and allowances for leave period with interest @ 25% p.a.
 - (iv) compensation and costs.
4. Applicant has filed the chronology of events starting from his date of appointment as Steno-Typist Gr.II on 3.6.58 vide MA No.2904/97. This chronology of events was also before the Hon'ble Supreme Court as per applicant's own averments (para 3 of MA No.2904/97), when they issued order dated 8.3.95 in SLP No.530/95 filed by applicant. Eventually after notice to respondents, that and other petitions filed by applicant came up for hearing before Hon'ble Supreme Court on 16.8.96. Upon hearing counsel for applicant as well as for respondents the Hon'ble Supreme Court passed the following order:

"Delay condoned.

Shri W.A. Qadri, Ld. counsel on behalf of UOI, places reliance on the counter affidavit filed on behalf of the respondent to submit that there can be no legitimate grievance of the petitioner surviving now.

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Ld. counsel however, submitted that even though no record is available of the deposit of Rs.50/- per month as the petitioner's contribution towards provident fund, that is, Nov.,79 to Jan. 80 yet the petitioner's assertion to this effect would be accepted and his provident fund account be calculated on that basis if that has not already been done. We are satisfied that with this statement made on behalf of UOI, nothing further survives for consideration in this matter. (emphasis supplied).

We are grateful to Shri Khanwilkar for the assistance rendered by him as Amicus Curiae on our request. However, we are constrained to observe that the petitioner has been very indiscreet in writing what what he has done in his letter dated 14.8.96 which is most uncharitable and an act of ingratitude by the petitioner towards Shri Khanwilkar. It has become necessary to say so in view of the petitioner's conduct exhibited thereby.

5. From the above it is clear that as per applicant's own documents, the Hon'ble Supreme Court had before them the entire chronology of events as recapitulated by applicant himself, including his being chargesheeted on different occasions, his being placed under suspension, the punishments inflicted upon him, his challenges to the same in different Court proceedings, and the orders passed from time to time thereon, the order compulsorily retiring him from service, and the orders passed from time to time on applicant's claims and grievances. After hearing both sides the Hon'ble Supreme Court by their aforesaid order dated 16.8.96 satisfied themselves that nothing further survived for consideration. We are bound absolutely by that finding and it certainly does not lie within our jurisdiction to permit applicant at

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this stage to reopen the issue, as the same is barred by constructive res judicata under Section 11 Explanation IV C.P.C. Even otherwise these OAs are hit by Order 2 Rule 2 CPC and in this connection we are fortified in our view by the ratio of the Hon'ble Supreme Court's ruling in Commissioner of Income Tax, Bombay Vs. T.P.Kumaran - ATJ 1996 (2) page 665.

6. The two OAs along with their attendant MAs are dismissed.

7. In this connection we notice that the above two OAs have been filed by the applicant after the Hon'ble Supreme Court's order dated 16.8.96 and is clearly an abuse of the process of law and the courts. In the circumstances therefore, normally it would have been in order to award heavy costs against the applicant, but considering his age and the fact that he is appearing in person we do not wish to do so here. Parties to bear their own costs.

8. Copies of this order to be placed in both OA case records.

(MRS. LAKSHMI SWAMINATHAN)
MEMBER(J)

(S.R.ADIGE')
VICE CHAIRMAN(A).

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[Signature]
Court Officer
Central & Subsidiary Tribunal
Mumbai Bench, New Delhi
Park Road, Hillside
Department of Legal
Services