

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

OA No.2581/96

New Delhi, this the 21st, day of May, 1997.

HON'BLE MR.JUSTICE K.M.AGARWAL, CHAIRMAN

HON'BLE MR.S.P.BISWAS, MEMBER(A)

Dr.S.C.A Rituparna
S/o Shri Shamsunder Aggarwal
Aged 47 years
R/o A-148 Vivek Vihar
Delhi-110095

Applicant

(By Advocate Dr.D.C.Vohra)

vs.

Union of India
through
The Foreign Secretary
Govt.of India
Ministry of External Affairs
South Block
New Delhi-110011.

Respondent

(By Advocate Sh.N.S.Mehta)

O R D E R

JUSTICE K.M.AGARWAL:

In earlier O.A.No.1629/91, the applicant was declared entitled to draw pay at the rate of Rs.3750/- per month with effect from 1.8.1989 upto and including 16.7.1992 in the pay scale of Rs.3000-4500 with annual increments as admissible in that pay scale together with D.A. and other allowances as admissible to him. The order was complied with by making payment of Rs.187/- and Rs.81,344 by two cheques dated 12.1.1996 and 23.1.1996 as mentioned in the order dated 24.1.1996 of the Ministry of External Affairs filed as Annexure/A8. Considering it to be partial implementation of the order passed by the Tribunal

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in OA No.1629/91, the applicant issued notice of contempt dated 2.4.1996, Annexure A/9 against one of the respondents and claimed further payment in accordance with paragraph 8 of Ministry of External Affairs' Order No.Q/FD/6910/10/86 dated 15.7.1987. Contempt application was also filed but rejected and, therefore, the applicant appears to have filed this OA for further payment of amount as per Ministry of External Affairs order dated 15.7.1987.

Para 8 of the said order dated 15.7.1987 speaks of grading non-IFS Group "A" officers who are brought on to the revised pay scales etc. for the purpose of drawal of foreign (compensatory) allowance. This claim was also raised in the earlier OA as would appear from paragraph 8(2) thereof which was as follows:

" An order/direction by this Hon'ble Tribunal to the Respondent/1 to fix his pay at the stage of Rs.3825/-p.m. as per FR 22(ii)(a) and in the pay scale of Rs.3000-4500, with annual increments as admissible to him since 1/7/88 and to grant him the status of First Secretary w.e.f.1/7/88 in terms of Order dated 15/7/87 and pay him foreign allowance of Rs. 8820/(instead of Rs.7370/- p.m.) w.e.f. 1/7/88."

In view of the facts aforesaid, we are of the view that the claim raised in the present OA is hit by the principle of res judicata, but the learned counsel for the applicant argued that the relief was not specifically refused and, therefore, the claim could not be rejected as barred by res

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judicata. We find no substance in the contention. Explanation V of Section 11 of the Code of Civil Procedure specifically says that any relief claimed in the plaint, which is not expressly granted by the decree, shall, for the purposes of this section be deemed to have been refused. It cannot be gainsaid that Section 11 embodies the principle of res judicata.

We, therefore, find no merit in this OA. Accordingly, it is hereby summarily dismissed.

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(K. M. Agarwal)
Chairman

S. P. Biswas

(S. P. Biswas)
Member (A)

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