

CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

Original Application No.1138 of 1997

New Delhi, this the 10th day of November, 1997

Hon'ble Dr. Jose P. Verghese, Vice Chairman (J)
Hon'ble Mr. N. Sahu, Member (Admnv)

Shri P.N. Malhotra, Ex Stores Superintendent,
(No. 6955147), Group VI COD Agra, Resident of
11/73, Chillipara, Shahganj, Agra (U.P.) -APPLICANT

(By Advocate - Shri S.S. Bhatia)

Versus

1. Director General of Ordinance Services,
Mister General of Ordinance Branch, Army
Headquarters, New Delhi- 110 011.
2. Officer Incharge, Sena Ayudh Corps Abhilekh
Karyala, Army Ordinance Corps Record, P.O.Box
No.3, Trimulgherry Post, Secunderabad-500 015.
3. The Administrative Officer, COD, Agra (U.P.)
C/o Commdt. C.O.D., Agra (U.P.). -RESPONDENTS

(By Advocate - Mrs. Meera Chhibber)

O R D E R (O r a l)

By Dr. Jose P. Verghese, VC(J).-

This Original Application has been filed seeking a direction from this Court against the respondents for reinstatement of the applicant in service with back wages and other benefit without any break in service.

2. The applicant had earlier filed an C.A.No. 593 of 1991 for the same relief wherein a final order was passed in his favour on 21.5.1993. The respondents went in appeal to the Hon'ble Supreme Court vide SLP No.780/95 and the said SLP was allowed vide an order dated 30. 1.1995 setting aside the

8

decision of this Tribunal and confirming the order of dismissal as well as the appellate order by which the appeal filed by the applicant against the dismissal order was rejected.

3. The applicant then filed a review application and the same was also dismissed by an order dated 18.7.1995.

4. Thereafter, the applicant filed a writ petition along with a prayer that the matter may be placed before a larger bench and the said writ petition was also dismissed on 12.7.1996.

5. Thereafter, the applicant moved this Court by an MA (F.No.8472 dt.9.10.96) and this Court considered the plea of the applicant that the original order of this Tribunal dated 21.5.1993 was passed only on the consideration of the applicability of Central Civil Services (Classification, Control & Appeal) Rules, 1965 and no other ground was considered in the said OA by the said order. This plea of the applicant was considered by this Court in the above said MA and this Court order passed on 14.10.1996 stating that this plea now being raised by the applicant could have been raised by the applicant at the initial stage. It was also noticed that the Hon'ble Supreme Court while allowing the appeal had also recorded that no other contention appears to have been urged by the applicant. This Court by the above said order dated 14.10.1996 considered the said plea and did not permit the applicant to urge

9

additional grounds for the same reason on the basis of above said observations of the Hon'ble Supreme Court and other observations contained in the judgment in the O.A.

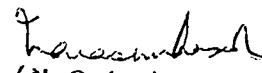
6. Against the above said order dated 14.10.1996 the applicant had again approached the Hon'ble Supreme Court by way of SLP and the same was also rejected:


7. After notice the respondents filed an affidavit stating that the present O.A. is against public policy and filed in abuse of process of the Court and it is a fit case to be rejected out right also on the ground of constructive res judicata. In accordance with Section 11 of the Code of Civil Procedure, 1908 any matter which might and ought to have been made ground of defence or attack in such former suit, shall be deemed to have been a matter directly and substantially in issue in such suit. The applicant made submission in reply to the respondent's submission only on the basis of Explanation IV to Section 11. No submission was made with reference to other explanations on the ground of limited jurisdiction referred to in other explanations.

8. We are of the considered view that for the reasons stated above, it is not open for the applicant now to urge additional grounds in this O.A., for the same relief which he has been agitating

10

throughout during the proceedings detailed
hereinabove. In view of this matter, this O.A. is
dismissed. No order as to costs.


(N. Sahu)
Member (Adminv)


(Dr. Jose P. Verghese)
Vice Chairman(J)

rkv.