

CENTRAL ADMINISTRATIVE TRIBUNAL PRINCIPAL BENCH

R.A.No.194/98

IN

O.A.No.2260/97.

New Delhi: this the 17 day of December, 1998.

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

I.S.Bhama,
S/o Shri Har Chand,
R/o A-1/244, paschim Vihar,
New Delhi.
Retired Dy. Director General,
from Doordarshan, New Delhi.

.... Applicant.

Versus

Union of India
through

1. the Secretary,
Ministry of Information and Broadcasting,
Govt. of India,
Shastri Bhawan,
New Delhi.

2. The Accounts Officer (C-III),
Pay & Accounts Office (IRLA),
Ministry of information & Broadcasting,
AGCR Building,
New Delhi -02

..... Respondents.

ORDER (BY CIRCULATION)

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

Perused the RA.

2. The main ground taken in the RA is that the case of Commissioner of Income Tax, Bombay Vs. T.P. Kumar- ATJ 1996 (2) 665 is not applicable to the present case because that was a case where Shri J.P. Kumar was dismissed from service while in the present case the review applicant was never dismissed from service.

3. Even if the applicant in the present case was not dismissed from service, the ratio laid down by the Hon'ble Supreme Court in Kumar's case (supra)

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is fully applicable in the present case also, namely that any matter which might and ought to have been made ground of defence or attack in a former suit, shall be deemed to have been a matter directly and substantially in issue in a subsequent suit, and the agitation of that claim in such subsequent suit would therefore be hit by constructive res-judicata under Section 11 Explanation (4) C.P.C., and would not be maintainable under Order II Rule 2 C.P.C.

4. The R.A. is therefore rejected.

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

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