

15

CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

OA No.1096/1994

New Delhi, this 24th day of May, 1996

Hon'ble Shri B.K. Singh Member(A)
Hon'ble Dr. A.Vedavalli, Member(J)

Shri Kula Nand
23-C, Rly. Colony
Tughlakabad, New Delhi-44

.. Applicant

By Shri G.D. Bhandari, Advocate

Vs.

Union of India, through

1. General Manager
Northern Rly, Baroda House
New Delhi

2. The Dvl. Railway Manager
NR, Paharganj, New Delhi

3. The Sr. Dvl. Mechanical Engr.
NR, New Delhi

4. The Dvl. Mechanical Engr.
NR, DRM Office, New Delhi

5. Loco Foreman
Tughlakabad, New Delhi

6. The Dvl. Personnel Officer
NR, New Delhi

.. Respondents

By Shri Rajesh, Advocate

ORDER

Hon'ble Shri B.K. Singh

This OA was filed on 24.5.94 seeking a direction to the respondents to release back wages, alongwith arrears etc. to the applicant.

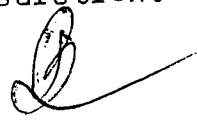
2. On notice, the respondents filed their reply contesting the application and grant of relief prayed for. Heard the learned counsel for the parties and perused the records of the case,



.. 0/2

3. It is admitted that the applicant was removed from service without holding an enquiry under the provisions of Rule 14(2) of Railway Servants (Discipline & Appeal) Rules, 1968 on the basis of the allegation that he participated in the all-India strike organized by the All India Loco Running Staff Association. He filed a Writ petition No.2229/81 before the Delhi High Court which was transferred as T No.745/95 to the Principal Bench of the Tribunal and it was heard and decided on 9.10.86. The Tribunal directed the respondents to hold the enquiry according to Rules. (Annexure C) By an order dated 16.12.84, the applicant was informed that the enquiry was not reasonably practicable. Aggrieved by that order, he filed OA 526/89 and challenged the order, which was decided on 5.11.91 and the order of removal was quashed. The applicant also filed CCP 216/92 for non-compliance of Tribunal's order, which was decided on 26.11.92 and the applicant was reinstated. It was stipulated in the reinstatement order that the 'reinstatement was subject to outcome of SLP filed in Supreme Court of India'.

4. It is surprising that the applicant has filed two cases claiming the same relief, i.e. OA 1096/94 filed on 24.5.94 and the other OA 1614/94 in which an order was passed on 19.8.94. The fact of filing OA 1614/94 which was pending adjudication was totally suppressed by the applicant. It will be seen that the reliefs claimed by the applicant in the present OA as well as OA 1614/94 are the same, the advocate is the same, parties are the same and the issues are the same and the matter has been finally decided by a court of competent jurisdiction. Therefore,

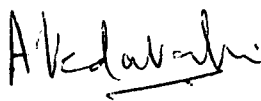



(3)

17

the present OA is hit by principles of resjudicata and liable to be dismissed as such.

5. During the course of the argument, the applicant mentioned that the benefits of R.Reddappa's case should be allowed to him. This has not been included in the relief clause and if he wants the benefit of Reddappa's case to be extended to him, he has to file a fresh OA seeking that relief. The judgement of the Tribunal dated 15.11.91 in OA 526/88 has been modified by the Hon'ble Supreme Court in the SLP decided on 23.8.93. To that extent, the order of the Tribunal stood modified in terms of the judgement of Reddappa. Since the matter has already been adjudicated upon finally by a court of competent jurisdiction and the issues and parties are the same, the present OA is not maintainable. As such, it is dismissed as one hit by principles of resjudicata but without any order as to costs.


(Dr. A. Vedavalli)
Member (J)


(B. K. Singh)
Member (A)

/gtv/