

CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH NEW DELHI

O.A. NO.2297 of 2000

New Delhi, this the 30th day of July, 2003

Hon'ble Smt. Lakshmi Swaminathan, Vice Chairman(J)  
Hon'ble Shri R.K. Upadhyaya, Member (A)

Shri Maha Singh,  
S/o Shri Mukhtiar Singh,  
Ex. Heavy Vehicle Driver,  
Delhi Milk Scheme, R/o V&PO Karala,  
Delhi-110085. ....Applicant

(By Shri S.M. Garg, Advocate)

Versus

1. Union of India,  
through the Secretary,  
Ministry of Agriculture,  
Department of Animal Husbandry Dairy,  
Krishi Bhawan,  
New Delhi-110001.
2. The General Manager,  
Delhi Milk Scheme, West Patel Nagar,  
New Delhi. ....Respondents.

(By Shri S. Mohd. Arif, Advocate)

O R D E R (ORAL)

By Hon'ble Smt. Lakshmi Swaminathan, Vice Chairman (J)

This OA, which is the fifth round of litigation by the applicant against the same respondents, has been filed by him impugning the order dated 1.6.1990 passed by the disciplinary authority and the order dated 6.4.2000 passed by the appellate authority.

2. In order to appreciate the facts and submissions made by the learned counsel for applicant in the present OA, it will be necessary to see two of the previous orders of the Tribunal, i.e., the order dated 25.9.1989 in OA 1140/1987 and the order dated 22.11.1999 in OA 295/1996. The operative portions of

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the Tribunal's orders dated 25.9.1989 and 22.11.1999 read as follows respectively:-

"In the result, the application is dismissed with the observations that the reviewing authority should give the applicant an opportunity of being heard before passing a final order after the enquiry is completed."

(emphasis added)

"In view of the facts and circumstances of the case, we dispose of the application with the direction that the appellate authority will dispose of the appeal within a period of four months from the date of receipt of a copy of this order. No costs."

(emphasis added)

3. Admittedly, the above directions given in the order dated 22.11.1999 are that the "appellate authority" should dispose of the appeal, which refers to the appeal submitted by the applicant in October, 1990, copy of which is placed at pages 74 to 86 of the paper book. Shri S. M. Garg, learned counsel has submitted that certain pleas have been taken by the applicant in paragraph 1 of this appeal, which has not been considered by the appellate authority. In this paragraph, it has been submitted, inter alia, that after completion of the said inquiry a penalty of compulsory retirement was imposed by the General Manager, Delhi Milk Scheme who is the disciplinary authority vide his order dated 1.6.1990. The applicant has alleged that the order passed by the disciplinary authority is violative of Ministry's order dated 24.7.1987 which has been dealt with by the Tribunal in OA 1140/1987, in which the directions as reproduced in paragraph No.2 above were given. He

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has, therefore, submitted that neither the disciplinary authority nor the appellate authority is the competent authority to pass the final orders on submission of the inquiry report, in terms of Tribunal's order dated 25.8.1989, which admittedly has become final and binding on both the parties.

4. Shri S.M. Arif, learned counsel has submitted that there was nothing illegal about the appellate authority passing the impugned order dated 6.4.2000 in terms of Tribunal's order dated 22.11.1999 in OA 295/1996. He has submitted that the appellate authority was required to dispose of the appeal which has been done within the prescribed period and nothing further survive. He has, therefore, prayed that the OA may be dismissed.

5. After careful perusal of the aforesaid orders of the Tribunal in OA 1140/1987 and OA 295/1996, we are unable to agree with the contentions of learned counsel for the respondents that there are any conflicting views expressed in those orders. By the later order passed in 1999, after considering the relevant facts, including the order in OA 1140/1987 and the orders of the Hon'ble Supreme Court in L. Chandra Kumar Vs. Union of India and Others, ((1997) 3 SCC 261), the OA was disposed of with the directions to the appellate authority to dispose of the appeal within a period of four months. A perusal of the impugned order passed by the appellate authority dated

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6.4.2000 shows that even though in paragraph 3 (i), the ground has been mentioned which has been raised by the applicant, namely, that the penalty has not been issued by the competent authority in accordance with the direction of the Ministry contained in their letter dated 24.7.1987 which has received the approval of the Tribunal vide its order dated 25.9.1989, the appellate authority did not deal with this issue. In other words, in terms of Tribunal's order dated 25.9.1989 which has become final and binding on the parties, it was necessary to place the inquiry report before the reviewing authority who, after giving the applicant an opportunity of being heard should have passed the final order and not the disciplinary or the appellate authority. This has not been done in the present case, even though the relevant facts and aforesaid orders are clear on the subject. The respondents should also have kept in view the fact that for some reason or another, there has been a number of OAs and sincere attempts should have been made on their part to pass relevant order in accordance with law and the directions of the Tribunal in the aforesaid orders. This could have easily been done if only the appellate authority had dealt with the issues in the case in the manner required under law. As a Co-ordinate Bench of the Tribunal which had passed the order dated 25.9.1989, we, therefore, agree with the contentions of Shri S.M. Garg, learned counsel that the respondents are bound

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to comply with the directions given therein, without any further unnecessary delay.

6. In the result, for the reasons given above, the OA is allowed with the following directions:-

- (i) The impugned orders passed by the disciplinary authority dated 1.6.1990 and the appellate authority's order dated 6.4.2000 are quashed and set aside;
- (ii) Respondent No.2 is directed to comply with the aforesaid orders of the Tribunal dated 25.9.1989 read with the order dated 22.11.1999 and place the inquiry report before the reviewing authority, who shall comply with those directions in letter and spirit; and
- (iii) Taking into account the peculiar facts and circumstances of the case, the reviewing authority is granted two months from the date of receipt of a copy of this order to pass the final order in the disciplinary proceedings, as above.

No order as to costs.

*Changam*

(R.K. Upadhyaya)  
Member (A)

*Lakshmi Swaminathan*

(Smt. Lakshmi Swaminathan)  
Vice Chairman (J)

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