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Central Administrative Tribunal, Principal Bench

Original Application No.2319 of 2000

New Delhi, this the 7th day of August, 2001

Hon'ble Mr. Justice Ashok Agarwal, Chairman
Hon'ble Mr. S.A.T. Rizvi, Member(A)

K.K.Sadasivan Pillai
Local Clerk
Embassy of India
Abu Dhabi, represented by his
Wife and Power of Attorney holder
Smt. Jayasree, T.C.21/1033
Twinkle House, Nedumgadu
Karamana P.O.
Thiruvananthapuram

- Applicant

(By Advocate: Shri Ramakrishna Prasad)

Versus

1. Union of India rep. by the
Secretary (Establishment)
Ministry of External Affairs
South Block, D.H.Q. P.O.
New Delhi-11

2. Embassy of India rep. by
First Secretary & HOC
P.O. Box 4090, Abu Dhabi
United Arab Emirates

- Respondents

(By Advocate: Shri A.K. Bhardwaj)

O R D E R (ORAL)

By Mr. S.A.T. Rizvi, Member(A)

On the charge of unauthorised absence from duty, the applicant's services were terminated by the respondents w.e.f. 16.2.91. Aggrieved by the same, the applicant approached the Ernakulam Bench of this Tribunal through OA No.270/93 which was decided on 3.6.94 by quashing and setting aside the order of termination. The applicant was reinstated accordingly and has also been paid arrears of pay and allowances for the period February, 1991 to March, 1995 (Annexure A-2).

2. The prayer made herein is for quashing the respondents' note dated 21.10.99 (Annexure A-8) by which

the applicant's prayer for grant of bonus has been rejected. The applicant further prays for grant of interest at the rate of 24% in respect of the payment of arrears of pay and allowances given vide Annexure A-2.

3. Learned counsel appearing on behalf of the respondents has raised the issue of constructive res-judicata by bringing to our notice the reliefs which the applicant had sought through OA No.270/93. The same are, for the sake of convenience, reproduced below:

- "i) Decisions and orders contained in Annexure A-1 and A-8 (to that OA) by which his services were terminated without assigning any reason be set aside, as they were illegal, unconstitutional and hence void ab initio;
- ii) Respondents be directed to reinstate the applicant in service with continuity of service, back wages and all other service benefits had he been allowed to continue without any break; and
- iii) such other reliefs which are fit and necessary in the circumstances of the case including costs."

4. Learned counsel for the respondents has argued that while deciding the OA No.270/93, the Ernakulam Bench of this Tribunal has refrained from granting the various reliefs sought by the applicant in that OA except the relief of quashing of the termination order.

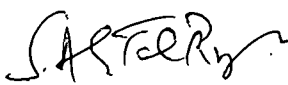
5. We have perused the reliefs sought by the applicant in OA No.270/93 and find that the applicant had clearly prayed for grant of back wages and all other service benefits assuming that he had been allowed to work without any break. That being so, the learned counsel for the respondents has correctly argued that it is not open to

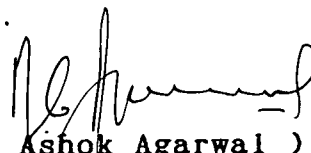
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the applicant to seek and pray for the same relief in the present OA. Non-grant of the aforesaid relief of back wages and all other service benefits by the Ernakulam Bench of this Tribunal would, in the circumstances, amount to rejection of aforesaid claims and those very claims cannot now be revived. On further consideration, we find that the Tribunal by its order of 3.6.94 has not decided the matter on merits. The order of termination was set aside, on the other hand, on the technical ground of non-compliance of the requirements of natural justice. Despite this, the respondents have, we find, been gracious enough to pay the arrears of pay and allowances to the applicant amounting to Rs.15.6 lacs, approximately.

6. In this view of the matter, we do not find any force in the present OA which deserves to be dismissed. The OA is accordingly dismissed. No costs.


(S.A.T. Rizvi)
Member(A)


(Ashok Agarwal)
Chairman

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