

CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH  
NEW DELHI.

OA 349/2000

New Delhi this the 24th day of May, 2000

Hon'ble Smt. Lakshmi Swaminathan, Member (J)  
Hon'ble Shri H.O. Gupta, Member (A)

S.K.Chawla,  
A-105, Pandara Road,  
New Delhi-3

.. Applicant

(By Advocate Shri G.K. Aggarwal )

Versus

1. Union of India through  
Secretary, Ministry of Urban  
Development, Nirman Bhawan,  
New Delhi-110011

2. The Director General (Works),  
Central Public Works Department,  
Nirman Bhawan, New Delhi-110011

3. The Secretary,  
Union Public Service Commission,  
Shahjahan Road, New Delhi-110011

.. Respondents

(By Advocate Shri K.R. Sachdeva )

O R D E R (ORAL)

(Hon'ble Smt. Lakshmi Swaminathan, Member (J)

This O.A. has been filed by the applicant impugning  
the promotion order issued by the respondents dated 3.11.1999  
(Annexure A-1).

2. A preliminary objection has been taken by the  
respondents that the present OA is a misuse of the process of  
law and accordingly not maintainable as the applicant had  
filed earlier application (OA 2374/1999) along with 27 others  
which has been disposed of by the Tribunal by order dated  
16.1.2000 (Annexure R-1). Admittedly, the present applicant  
was applicant 8 in that OA. The applicants in OA 2374/99 had  
filed a joint application under Rule 4(5)(a) of the Central  
Administrative Tribunal (Procedure) Rules, 1987, which had  
been allowed by the Tribunal wherein they had impugned the  
Office Order 201/99 dated 3.11.1999 issued by the respondents  
regarding promotion/ non-regularisation in the grade of  
Executive Engineer (Civil/Electrical). It is noticed that in  
the present OA also, the applicant is aggrieved by the inaction

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of the respondents in not regularising his services as Executive Engineer(Civil) as per the impugned order and he has sought a declaration and direction to the respondents to review his case in terms of Paragraphs 4.7 and 4.8 of the O.A. (6)

3. Shri G.K. Aggarwal, learned counsel has submitted that although admittedly the applicant was one of the 28 applicants in OA 2374/99 who had agitated <sup>a/b</sup> common interest, in the present OA the applicant has agitated certain issues which are applicable to him which are based on the orders of the Hon'ble Supreme Court dated 21.1.1997 and 31.1.1996(Annexures A-4 and A-5). He has, therefore, very strenuously submitted that there is no bar either on the principles of res-judicata or constructive res-judicata in the present case, as submitted by the learned counsel for the respondents.

4. After considering the pleadings and the relevant records, including the submissions made by the learned counsel for the parties, we find force in the contentions of the respondents that the present OA is not maintainable as it is barred by the principles of res-judicata as well as constructive res-judicata. (See the judgements of the Hon'ble Supreme Court in Daryao Vs. State of Uttar Pradesh (AIR 1961 SC 1457), The Workmen of Cochin Port Trust Vs. The Board of Trustees of the Cochin Port Trust and Anr. (AIR 1978 SC 1283) and Roshan Lal Ahuja Vs. Dr. S. C. Jain (1986(4)SLR 285). As held by the Hon'ble Supreme Court in Daryao's case the principle of res-judicata "is a rule of universal law pervading every well regulated system of jurisprudence and is put upon two grounds, embodied in various maxims of the common law; the one, public policy and necessity which makes it to the interest of the State that there should be an end to litigation-interest republicae ut sit finish litium; the other, the hardship on the individual that he should be vexed twice for the same cause-nemo debet bis vexari pro eadē causa."

5. Taking into account the settled law and the principles laid down under Section 11 of the CPC, we are unable to agree with the contentions of the learned counsel for the applicant

that having agitated the grievance of non-promotion/regularisation to the post of Executive Engineer(Civil) along with the others, <sup>a</sup> who were stated to have common interest in OA 2374/99, he again <sup>can</sup> re-agitate the same issues which could have been taken earlier by filing an application like the present one. It is further relevant to note that the learned counsel for the applicant has submitted that the applicants in OA 2374/99 being aggrieved by the Tribunal's order dated 16.1.2000, have filed CWP in the Hon'ble High Court which is sub-judice.

6. In the above facts and circumstances of the case mentioned above, the OA is rejected as not maintainable. No order as to costs.

  
(H.O.Gupta)  
Member(A)

  
(Smt.Lakshmi Swaminathan)  
Member(J)

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