

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
NEW DELHI

AT/7/12

O.A. No. 509/89  
T.A. No.

199

DATE OF DECISION 11-1-1991

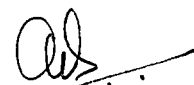
Shri Kamal Singh Petitioner  
present in person. Advocate for the Petitioner(s)  
Versus  
Union of India Respondent  
Shri V.S.R. Krishna, proxy Advocate for the Respondent(s)  
for Shri M.L. Verma.

CORAM

The Hon'ble Mr. JUSTICE AMITAV BANERJI, CHAIRMAN.

The Hon'ble Mr. I.K. RASGOTRA, MEMBER(A).

1. Whether Reporters of local papers may be allowed to see the Judgement? \_
2. To be referred to the Reporter or not? ✓
3. Whether their Lordships wish to see the fair copy of the Judgement? -
4. Whether it needs to be circulated to other Benches of the Tribunal? -

  
(AMITAV BANERJI)  
CHAIRMAN

CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH  
NEW DELHI.

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REGN. NO. O.A.508/89.

DATE OF DECISION: 11-1-1991

Shri Kamal Singh. ... Applicant.

Versus

Union of India. ... Respondents.

COMRAM: THE HON'BLE MR. JUSTICE AMITAV BANERJI, CHAIRMAN.  
THE HON'BLE MR. I.K. RASGOTRA, MEMBER(A).

For the Applicant. ... present in person.

For the Respondents. ... Shri V.S.R. Krishna,  
proxy for Shri M.L.  
Verma, Counsel.

( Judgement of the Bench delivered by  
Hon'ble Mr. Justice Amitav Banerji,  
Chairman )

This case is listed for admission and orders.

We have heard Shri Kamal Singh, who appeared in person. He was employed as Inspector Phone under Director, Tele-communication, Udaipur (Rajasthan). An order of compulsory retirement from service w.e.f. 30.6.1981 was passed against him under CCS(CCA) Rules, 1965. His complaint is that the above order was passed without holding a proper inquiry.

The applicant had filed a writ petition (CW 1292/81) in the Rajasthan High Court. After the Administrative Tribunals Act 1985 ( for brief 'the Act'), the above writ petition was transferred to the Principal Bench of the Tribunal and numbered as T-483/86. An order was passed by the then Chairman on 20.3.1987 transferring the above case to the Jodhpur Bench of the Tribunal. It was also done to facilitate the availability of the

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record by Jodhpur Bench as the High Court of Rajasthan needed the record in a forgery case. After the case had been received by the Jodhpur Bench, it was re-numbered as T-87/87.

The above T-87/87 was dismissed for default on 25.4.1988 and an Application for restoration of the case was also dismissed on 1.5.1989.

In the meantime, the applicant had filed the present O.A. 508/86 before the Principal Bench on 1.3.1989. It was disclosed by the applicant that the matter contained in the present case is the very same, which was in T-87/87. He made a categorical statement before us today in this regard.

It was pointed out to the applicant that he had challenged the order of his compulsory retirement in the High Court, which had been transferred to the Principal Bench and then re-transferred to the Jodhpur Bench and it had been dismissed for default and even the restoration application had also been dismissed for default. The matter has become final and it was not open to him to agitate the matter once again before another Bench. As a matter of fact, the present O.A. was not maintainable in view of the fact that he had already challenged the same and it had been dismissed for default and not restored.

The applicant then argued that there is no bar for

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an aggrieved person to file a second Application before another Bench. Rule 4 of the C.A.T.(Procedure) Rules, 1987 lays down that an Application to the Tribunal shall be presented in Form I. Paragraph 7 of the Form I states as follows:

"7. Matters not previously filed or pending with any other court:

The applicant further declares that he had not previously filed any application, writ petition or suit regarding the matter in respect of which this application has been made, before any court or any other authority or any other Bench of the Tribunal nor any such application, writ petition or suit is pending before any of them.

In case the applicants had previously filed any such application, writ petition or suit, the stage at which it is pending, and if decided, the list of the decisions should be given with reference to the number of Annexure to be given in support thereof".

This clearly indicates that the applicant has to state that he had not previously filed any such application, writ petition or suit regarding the matter in respect of which this application has been made. He has also to verify the contents of the above paragraph 7 in accordance with the verification provided in Form I. In the present case, the applicant in paragraph 8 of the O.A. has stated that "The applicant further declare that he had not Previously filed any fresh application, with regarding matter in respect of which this application has been made before any tribunal". The contents of the above paragraph of the pleadings are patently wrong as the applicant admitted before us today

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that he had filed a writ petition in the same matter which was later on transferred to the Principal Bench and ultimately had the No. T.A. 87/87 before the Jodhpur Bench. It has been dismissed for default. Consequently, his stand is that he did not file any O.A. even if factually correct, does not help him. The writ petition filed by him stood transferred after coming into force the Act, to the Tribunal and it had been subsequently given T.A. No. 483/86 and thereafter re-numbered as T-87/87 before the Jodhpur Bench. He had, as a matter of fact, approached the Tribunal through a T.A. He had thus given wrong information in paragraph 8 of this O.A.


It is trite that no one can file more than one Application or TA in respect of the same subject matter. If it was not so, then any person aggrieved can try his luck by filling more than one OA before other Benches of the Tribunal. The contention of the applicant that there was no bar to his filing more applications is untenable and is rejected.

Another argument raised by the applicant was that he had filed a fresh O.A. before the Principal Bench which had been allowed in part even after his earlier petition had been dismissed by the Jodhpur Bench. If that be so, it was not brought to the notice of the Bench of his having filed previous Application or Writ Petition. A wrong assumption of jurisdiction cannot be the declaration of law for entertaining an Application for the second time on the same cause of action.

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Having considered the matter, we are satisfied that this O.A. No. 508/89 is not maintainable and must be dismissed as such. We order accordingly. However, there will be no order as to costs.

  
(I.K. RASGOTRA)  
MEMBER(A)

  
(AMITAV BANERJI)  
CHAIRMAN

'SRD'