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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

O.A.No.1107/1989

New Delhi, This the 18th Day of July 1994

Hon'ble Shri C.J. Roy, Member(J)

Hon'ble Shri P.T.Thiruvengadam, Member(A)

Shri Joginder Nath
son of Shri Chunni Lal
Ministry/Wireman, Northern Railway
Trainlighting shop
Jagadri Workshop.

..Applicant

By Shri Anis Suhrawardy, Advocate

Versus

1. Union of India Through its
Secretary
Ministry of Railways
Rail Bhawan, New Delhi.
2. General Manager
Northern Railway
Baroda House, New Delhi and
3. Workshop Electrical Engineer
Northern Railway
Jagadri Workshop.

..Respondents

By Shri D N Moolri, Advocate

O R D E R (Oral)

Hon'ble Shri C.J. Roy, Member(J)

1. The applicant is also present in person to-day. We have seen the applicant getting emotional now and then and trying to address us. We have permitted him to address. The facts leading to the case are that the applicant was appointed as an unskilled worker in 1950. Subsequently he had earned promotions as Skilled Wireman, highly skilled wireman and Progress Supervisor posts. When he was working as a Progress Supervisor at Jagadri Workshop there was a memo to the applicant to do supervisory work for the cleaning job as alleged by the applicant. The applicant however, asserts that it is not

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part of his duty. Therefore he has made an endorsement that he is not concerned with that letter. This has happened during the impending visit of Deputy Ministry of State along with the GM of Northern Railway to that particular place.

2. In view of the fact that he has not carried out the direction of the superior officer a chargesheet was issued against him and an enquiry was conducted and he was punished by the disciplinary authorities with lowering of his post to two ranks below i.e. from the post of Progress Supervisor to the post of Skilled wireman.

3. Against this order he filed a suit for declaration in the Sub Judge of Ambala. But the suit was dismissed on 24.12.1981 (Annexure R-1). The applicant preferred an appeal to the Additional District Judge by Annexure R-2 and the same was dismissed on 28.9.82. Subsequently he preferred a second appeal to the Hon'ble High Court and this was withdrawn by him. While allowing the withdrawal of the second appeal, the Hon'ble High Court observed (Annexure 1 page 125 of the paper book) in the last para as follows:-

"It is stated that the matter is being reconsidered by the Union of India. Consequently the appeal is dismissed as withdrawn."

This order was rendered on 1.8.1983.

4. It is pertinent to mention here that the applicant made a representation (R-3) to the Department on 13.9.83. In pursuance to the directions of the Hon'ble High Court the respondents vide order No. 723-E/358/1/Elect dated 30.12.83 (Annexure R-4) passed an order stating that the applicant had already undergone the punishment and he may now be

restored to his original post of Progress Supervisor subject to availability of vacancy. This order has been notified vide Annexure R-5 and the applicant was restored as Progress Supervisor with effect from 31.12.1983.

5. The applicant now having undergone all these exercises filed this OA in May 1989 for re-agitating the whole of the enquiry proceedings and the issue of chargesheet and non appointment of the enquiry officer. The Tribunal cannot go into this at this stage because it is barred by res judicata. This issue was already settled and disposed of by the Sub Judge and Additional District Judge and also it was permitted to be withdrawn by the Hon'ble High Court. In pursuance of the directions of the Hon'ble High Court the applicant was also given promotion according to Annexure R-4 and R-5. Under the circumstances we feel that the applicant is not entitled to raise this before us because the application is clearly barred by res-judicata. ~~However, since~~ However, the applicant has been given the benefit of promotion by Annexure R-5 we feel it is not a fit case for interference in so far as the points raised by him about the facts of the case which are not germane to the discussion here.

6. Secondly we also looked this matter in the light of limitation as envisaged in the CAT Act under section 20 which covers the point of limitation. When a final order as mentioned in section 20 is passed the applicant if he is aggrieved can make a representation to the respondents and wait for 6 months for a reply. After the six months he can move the court within 1 one year. i.e. within 1½ years of passing the final order he can move the court. However the applicant filed the OA in May 1989 against an order passed in 1983. Though

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the applicant referred to an internal correspondence made by the department (Annexure P 11 Page 80 of paper book), it will not confer any fresh cause of action. Nor we feel that it will come as a final order within the meaning of Section 20 of the CAT Act. Therefore the case is clearly and hopelessly barred by res-Judicata.

6. Under the circumstances we have no hesitation to dispose of the application with a direction that it is open to the applicant to make a fresh representation to the respondents based on the internal correspondence and if the respondents consider this representation this Tribunal has no objection to this. The OA is disposed of with the above direction. No costs.

P. T. Thiruvengadam

(P.T. THIRUVENGADAM)
Member(A)

C. J. Roy

(C.J. ROY)
Member(J)

LCP