

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

NEW DELHI

O.A. No. 15/1988.
T.A. No.

199

DATE OF DECISION 28.1.1991

Shri Vijay Kumar ~~Petitioner~~ Applicant.
 Shri V.P.Sharma. Advocate for the ~~Petitioner(s)~~ Applicant
 Versus
 Union of India & Ors Respondent s.
 Shri P.P.Khurana, Advocate for the Respondent(s)

CORAM

The Hon'ble Mr. P.K. KARTHA, VICE-CHAIRMAN (J).

The Hon'ble Mr. B.N. DHOUNDIYAL, 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 ?

JUDGEMENT

(JUDGMENT OF THE BENCH DELIVERED BY HON'BLE MR.
B.N. DHOUNDIYAL, MEMBER (A)).

This is the second time that the applicant, a Postal Assistant who had been removed from service by order dated 9.2.1983 has approached this Tribunal seeking redressal of his grievances. He had filed a suit in the Court of Senior Sub Judge, Gurgaon, seeking declaration that the impugned order dated 9.2.1983 passed by the Senior Superintendent of Post Offices, Gurgaon removing him from service is illegal and void. The suit was transferred to the Chandigarh Bench of this Tribunal under Section 29(2) of the Administrative Tribunals Act, 1985 (T-1051 of 1986). In its judgment dated 12.1.1987, the Tribunal directed the respondents (Senior Superintendent of Post Offices, Gurgaon) to forward the appeal of the

9

applicant to the Appellate Authority who was directed to decide the same within a period of six months. The present application has been filed in the Principal Bench of the Tribunal after obtaining ~~the~~ ^{Chairman's} permission under Section 25 of the Administrative Tribunals Act, 1985. The grievance of the applicant is that the Appellate Authority has not considered his appeal and passed final orders in spite of the above direction.

2. Strictly speaking, after the case had been disposed of by the Chandigarh Bench of the Tribunal by order dated 12.1.1987, no fresh application is maintainable on the same cause of action. In case the respondents have not complied with the directions given by the Tribunal, the proper course for the applicant would have been to file a contempt petition before the same Bench. That was apparently not done. Instead the applicant filed this original application in the Tribunal for adjudication.

3. We have carefully considered the matter and have heard the learned counsel of both the parties. The respondents did not file the counter affidavit within the time given to them. After the Tribunal passed an order on 18.7.1988, to the effect that the case be heard on the basis of the available records in its turn and that no further opportunity will be given to them to file counter affidavit, the respondents filed counter affidavit in the Registry on 19.7.1988. We have also perused the same.

4. It is borne out from the records that as directed by the Chandigarh Bench of the Tribunal, the applicant preferred an appeal on 29.1.1987 to the Appellate Authority. In the appeal, the applicant has raised several points and it is a detailed one running into 9 typed pages. In para 6.12 of the application, it has been stated that the Appellate Authority did not obey the order of the Tribunal. The

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reply of the respondents is that "the appeal of the applicant was received in this office on 4.2.1987 and the same was forwarded to your office vide this Office No. even dated 25.2.1987 and the same was rejected vide D.P.S. Haryana Memo No.Staff/1-3/11/87. dated 9.8.88". Shri Boota Ram, Senior Superintendent of Post Offices, Gurgaon Division, Gurgaon has signed and verified the counter affidavit. The respondents have not, however, annexed a copy of the order dated 9.8.1988 to their counter affidavit.

5. In the facts and circumstances of the case, the application is disposed of with the direction to the respondents to send to the applicant another copy of their order dated 9.8.1988 by registered post within a period of 15 days from the date of receipt of a copy of this order. On the receipt of the said order, the applicant will be at liberty to file a fresh application in accordance with law, if so advised. The respondents shall pay a sum of Rs.500/- (Rupees five hundred only) by way of token costs to the applicant.

B.N. Dhoundiyal
(B.N. DHOUNDIYAL)
MEMBER (A) 248791

P.K. Kartha
(P.K. KARTHA)
VICE-CHAIRMAN (J). 2/8/21