

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI.

O.A. No. 2092/88

Date of decision 14-12-88

3

Shri Arun Kumar Jain

....Petitioner

Vs.

Union of India & Others

....Respondents

For the petitioner

....Applicant in person

For the respondents

....Shri P.H. RamChandani,
Advocate.

CORAM:

THE HON'BLE MR. P.K. KARTHA, VICE CHAIRMAN(J)

THE HON'BLE MR. D.S. MISRA, ADMINISTRATIVE MEMBER

1. Whether reporters of local papers may be allowed to see the Judgment?
2. To be referred to the Reporter or not?

(Judgment of the Bench delivered by Hon'ble Mr. P.K. Kartha, Vice Chairman(J))

The applicant, who was working as Pay & Accounts Officer in the office of the respondents filed this application under Section 19 of the Administrative Tribunals Act, 1985, praying that the impugned order dated 28.12.84 whereby the penalty of compulsory retirement was imposed on him, should be quashed. He had also prayed for consequential benefits.

2. The application came for admission on 12.12.88

when Shri P.H. Ramchandani, learned counsel appeared on

behalf of the respondents and vehemently opposed the maintainability of the present application. He pointed out that the applicant had filed a Revision Petition on 17.8.87 and that the President of India has passed the order in revision on 17th of November, 1988. According to the learned counsel, the original impugned order dated 28.12.84 has merged with the order passed by the President on 17th November, 1988. The applicant had received a copy of the order passed by the President but he has not challenged the validity of the said order in the present application. Nor has the applicant taken steps to amend the application in view of the order passed by the Revisional Authority and to challenge the order passed by that authority specifically.

3. The applicant, who appeared in person wanted the application to be heard without any amendment of the same as per the submission of Shri Ramchandani.

4. The applicant has stated that he had filed an application in this Tribunal (OA 27/85) on 10.12.85/ that the same was disposed of by this Tribunal by its judgment dated 7.2.86., whereby the application was dismissed with the direction that the applicant not file a Revision Petition to the respondents before approaching the Tribunal. The applicant filed a Review Petition which was disposed of by this Tribunal by order dated 11.4.1986 directing the respondents to entertain the Revision Petition if filed by the applicant within one month from the date of the order. Aggrieved by that order of Tribunal, he moved

the Supreme Court by way of SLP along with an application for condonation of delay and ex-parte stay. While, dismissing the SLP on 22.7.1987, the Supreme Court gave the applicant further 30 days from the date of Supreme Court's order to file the Revision Petition as directed by this Tribunal. Therefore, the applicant filed a Revision Petition on 17.8.1987. Thereafter, he filed a contempt Petition in this Tribunal, which was disposed of by the Tribunal on 19th April, 1988. While dismissing the CCP, it was observed that "in the absence of any direction by this Tribunal or by the Supreme Court to the respondents to dispose of the revision petition within a specified period, there is no case for initiating contempt proceedings. As the Revision Petition had not been disposed of within the period of six months, it was open to the applicant to move this Tribunal under Section 19 of the Administrative Tribunals Act, 1985, treating the Revision Petition as having been dismissed. But that did not mean that the respondents could be held guilty of contempt." The Tribunal further observed that "if the applicant is aggrieved by the non-disposal of his revision petition, nothing said herein will stand in the way of the applicant moving the Tribunal by way of an application under Section 19 of the Administrative Tribunals Act" (vide pages 24-25 of the Paper Book)

5. Shri Ramchandani, the learned counsel of the respondents has placed before us a copy of the order

passed by the President on 17th November, 1988, whereby the President has after considering all the facts and circumstances of the case, upheld the penalty of compulsory retirement imposed by the Disciplinary Authority. The President has, therefore, rejected the Revision Petition filed by the applicant.

6. We entirely agree with the reasoning of Shri Ramchandani that the original order of compulsory retirement passed by the Disciplinary Authority has merged with the order passed by the President on 17th November, 1988 in his capacity as the Revisional Authority. The applicant has not chosen to challenge the validity of the order passed by the President on 17.11.88 by amending the application and praying for quashing the aforesaid order. In view of this, we are of the opinion that the present application is not maintainable in law and that the same is liable to be dismissed in limine at the admission stage itself. This would not, however, preclude the applicant from filing a fresh application in accordance with law, if he is so advised. The parties will bear their own costs.

D.S. Misra
14.12.88
(D.S. MISRA)
MEMBER (A)

P.K. Kartha
14.12.88
(P.K. KARTHA)
VICE CHAIRMAN (J)