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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI.

MP No.1396 of 1989
in OA No.214/88

Date of Decision: 13-07-1989.

K.L. Gulati

.....Petitioner

Vs.

Union of India & Others

.....Respondents

For the Petitioner

.....In person

For the Respondents

.....None

CORAM:

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

THE HON'BLE MR. P.C. JAIN, ADMINISTRATIVE MEMBER

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

O R D E R

OA 214/88 which had been filed by the applicant in this Tribunal was disposed of by judgment dated 9.6.1989. The present MP has been filed by the original applicant in OA 214/88 on 23.6.89 praying for modifying the judgment dated 9.6.89 to the extent prayed for in the MP.

2. In OA 214/88, the applicant had, *inter alia*, prayed for quashing the public notices dated 2.11.1987 and 14.1.1988.
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By public notice dated 2.11.1987 which was published in The Hindustan Times, New Delhi on 20.11.87, the respondents notified that the applicant had been removed from service by order dated 24.8.87. The public notice dated 14.1.88 also referred to the said order dated 24.8.87 whereby the applicant had been removed from service.

3. After examining the respective contentions of the parties, we had directed the applicant to prefer an appeal to the appellate authority against the impugned order of removal from service dated 24.8.87 within a period of one month from the date of communication of a copy of the judgment (vide paras 46 and 60(iv) of judgment dated 9.6.89).

4. In the present MP, the applicant has submitted that the impugned order of removal from service is dated 20.11.87 and not 24.8.87 and, therefore, he has prayed that the judgment dated 9.6.89 may be modified accordingly. In this context, the applicant has drawn our attention to order dated 8.1.1988 passed by this Tribunal in CCP 2/88 in T-378/86. In the said CCP, he had contended that when his petition for challenging the order of transfer was still pending before this Tribunal (TA 378/86) the respondents were not competent to remove him from service vide Public Notice dated 20.11.1987 appearing in 'The Hindustan Times, New Delhi'. This Tribunal, vide its

order dated 8.1.1988 had observed as follows:-

" This order of removal undoubtedly relates to a service matter which is cognizable by this Tribunal. If the petitioner is aggrieved by the order of removal, he may, if he so desires, move the Tribunal by way of an application under Section 19 of the Administrative Tribunals Act, 1985".

5. The applicant in the present MP has stated that he filed OA 214/88 pursuant to the aforesaid order dated 8.1.88. He has also stated ^{that} pursuant to the judgment dated 9.6.89, he has filed appeal to the appellate authority against the impugned order dated 20.11.87 on 16.6.89.

6. We have heard the applicant in person and have carefully gone through the records. In the judgment dated 9.6.89, the respective contentions of the parties in regard to the removal from service of the applicant have been considered (vide paras 29 to 42). We had expressed the opinion that the holding of ex-parte enquiry against the applicant in the facts and circumstances of the case cannot be held to be unjustified and that the applicant was not entitled to the relief sought in OA 214/88. However, in the interest of justice, we directed that he may file an appeal to the appellate authority against the impugned order of removal from service dated 24.8.87.

7. The plea of the applicant in the present MP that the Tribunal in its judgment dated 9.6.89 made the mistake of directing him to prefer an appeal to the appellate authority against the impugned order of removal from service dated 24.8.87 instead of directing

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him to prefer an appeal against the impugned order dated 20.11.87(Public Notice). As already pointed out above, the Public Notices dated 2.11.87 and 14.1.88 also dealt with his removal from service vide order dated 24.8.87. We do not see any error or mistake in the judgment dated 9.6.89, as alleged by him. The fact that the directions contained in the judgment are not pursuant to the prayers made by him in OA 214/88 cannot be pointed out as a mistake. The Tribunal is competent to give appropriate directions to the parties in the facts and circumstances of the case. We are not impressed by the plea raised by the applicant in the present MP. We do not see any justification to modify the judgment dated 9.6.89 as prayed for in the MP.

8. There is also another aspect of the matter. The applicant by filing the present MP is indirectly seeking to review the judgment dated 9.6.89 which is not legally tenable. In case he is aggrieved by the judgment dated 9.6.89 in any respect, the appropriate course would have been to prefer an appeal to the Supreme Court or seek a review of the judgment.

9. There is no merit in the present MP and the same is rejected.

10. The applicant orally made a prayer that the Tribunal may give him one month's time to prefer an appeal to the appellate authority in case we were to hold that such appeal is to be preferred against the impugned order dated 24.8.87.

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He has already preferred an appeal on 16.6.1989. In case he chooses to file a revised appeal against the order of removal dated 24.8.87 pursuant to the judgment dated 9.6.1989 in OA 214/88, we direct that the period during which the Tribunal was on vacation from 12.6.89 to 2.7.89 may be excluded for computing the period of one month specified in the judgment dated 9.6.89 for preferring the appeal.

11. The applicant submitted that a copy of the impugned order dated 24.8.87 is not available with him. A copy of the said order forms part of the pleadings in OA 214/88 (vide Annexure IA A to the counter affidavit, page 57 of the paper book). Moreover, on the Public Notice dated 14.1.88, it is specifically mentioned that the order dated 24.8.87 sent by Registered post was received by the applicant on 14.9.87 as confirmed by Sub-Postmaster, Suratgarh, vide his letter dated 30.10.87.

12. Let a copy of this order be communicated to both the parties.

(P.C. JAIN) 18/7/89
ADMINISTRATIVE MEMBER

Bruar
18/7/89
(P.K. KARTHA)
VICE CHAIRMAN(J)