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Central Administrative Tribunal
Principal Bench
Delhi.

Regn. No. RA 20/86 in OA 454/86.

August 20, 1986.

Shri Rameshwar Dass Gupta

.....

Petitioner

Versus

Delhi Administration & Others

Respondents.

CORAM:

Shri Justice K. Madhava Reddy, Chairman.

Shri Kaushal Kumar, Member.

For petitioner

.....

Shri R.K. Mehta, counsel.

(Judgment of the Bench delivered by Shri
Justice K. Madhava Reddy, Chairman).

This is a petition for review of our order dated 30.6.1986 by which we dismissed the petition as barred under Section 19 read with Section 21 of the Administrative Tribunals Act.

2. The main ground on which this petition for review is based is that the petitioner ^{was} /not notified the date of hearing and, therefore, he could not be present. According to the petitioner it could not be disposed off on merits in his absence, it could at the most be only dismissed for default. In paragraph 3 of the petition, the petitioner states that "on 23.6.1986 he personally attended the office of the Registrar and was advised to see Shri R.K. Jain an officer with whom the file was pending and the petitioner was advised to visit by a week's time to find out about the objections and the petitioner had further requested that on account of summer vacation, his counsel would be out of Delhi till the end of June, 1986 and would be available only in the first week of July, 1986. The petitioner was asked that in such event, he or his counsel can make an inquiry after 30th June". But the matter was disposed off on 30.6.1986.

3. We are afraid, the record is otherwise. ^{The record} discloses that

this petition was filed on 29.5.1986 before this Tribunal and after scrutiny it was placed before the Dy.Registrar (Judicial) on 24.6.1986. It may be noticed that the Principal Bench of the Tribunal was closed on account of summer vacations w.e.f. 2.6.1986 to 20.6.86 (both days inclusive) and reopened on 23.6.86. But the vacation Bench was sitting and the Registry of the Tribunal was open and functioning. Shri R.K.Jain submitted the papers after scrutiny before the Dy.Registrar (J) on 24.6.86. On that very day Shri D.R.Gupta, Dy.Registrar (J) made an endorsement that the application be listed before Court No.1 on 30.6.1986. The normal procedure adopted by the Tribunal to notify the cases posted for admission on each day is to include them in a cause list and publish that cause list on the Notice Board of the Tribunal and deliver a copy of the cause list to the Bar Association of the Tribunal and to the Bar Association of the High Court. This procedure is being followed by this Tribunal at Delhi ever since it was constituted on 1.11.1985. That procedure was strictly adhered to even in this case. This case was listed as case No.1 before Court No.1 on 30.6.1986 and accordingly came up for admission on that day. In the absence of the petitioner and his counsel, this Bench as provided under Section 22(2) of the Administrative Tribunals Act, 1985 read with Rule 15(1) instead of dismissing the petition for default perused the record and decided it on merits. The Tribunal is not required to necessarily dismiss the matter in default of appearance of parties; it is empowered to peruse the record and dispose of the same on merits. There is no error of law or fact apparent on the face of the record warranting review of our order dated 30.6.86.

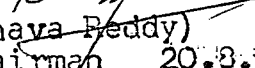
4. The other ground on which the petitioner seeks a review of the judgment is that the view taken by the Tribunal that the

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petition is barred is not correct. The petitioner's grievance, as stated in paragraph 3 of our judgment of which this review is sought, relates to the scale of pay to which the petitioner became entitled with effect from 1.7.73.

Though the High Court of Delhi had observed that if the appellant has any grievance, independent of the Writ petition, he may seek any remedy as available to him under the law, that by itself does not vest jurisdiction in this Tribunal to entertain a petition under Section 19 in respect of a grievance arising out of an act committed or omission made prior to 1.11.1982 i.e. beyond the three years of the constitution of this Tribunal. If as contended by the applicant, his grievance is not in respect of any matter covered by the earlier petition the disposal of that writ petition cannot be a fresh cause of action to petitioner or extend the jurisdiction of the Tribunal to entertain a petition in respect of a grievance which arose in 1973. If it was the subject matter of the writ petition and that relief was disallowed by the High Court, then this Tribunal cannot entertain a petition and grant a relief refused by the High Court. The petitioner's remedy, if any, is by way of an appeal to the Supreme Court and not by way of an application under Section 19.

5. We, therefore, see no ground to review our judgment dated 30.6.86. This petition is accordingly dismissed.


(K. Madhava Reddy)
Chairman 20.8.86.


(Kaushal Kumar)
Member 20.8.86.