

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

C.P. NO. 93/1998
in
O.A. NO. 2185/1991

New Delhi this the 9th day of July, 1998.

HON'BLE SHRI JUSTICE K. M. AGARWAL, CHAIRMAN
HON'BLE SHRI N. SAHU, MEMBER (A)

R. K. Sachdeva S/O Udhoo Dass,
R/O B-294, Prashant Vihar,
Sector-14, Rohini,
Delhi. ... Applicant

(By Shri D. S. Chaudhary, Advocate)
- Versus -

Shri T. K. Sampat Kumar,
Chief General Manager (Maintenance),
N.T.R., Department of Telecom.,
Kidwai Bhawan,
New Delhi-110050. ... Respondent

O R D E R (ORAL)

Shri Justice K. M. Agarwal.

This contempt petition has been filed for non
compliance with the order made in OA No. 2185/91 on

1.4.1997.

2. On a perusal of the order made in OA No.
2185/91, we find that one of the preliminary
objections taken on behalf of the respondents was that
of pendency of appeal against the dismissal order. In
that light, it appears the following directions were
made :-

.....it would be appropriate in the
circumstances of the case to remit the case
to the appellate authority to decide the
appeal in accordance with the law. The

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delay, if any, in filing the appeal is condoned. We make it clear, however, that the appellate authority shall consider the appeal filed by the applicant after giving him a personal hearing and pass a reasoned and speaking order, within three months from the date of receipt of a copy of this order. Thereafter, if the applicant is aggrieved by the order passed by the appellate authority, he may take such action as he deems fit in accordance with law...."

3. Now the learned counsel for the respondents submits that during the pendency of OA No. 2185/91, the applicant's appeal was decided and dismissed by the appellate authority. The applicant had thereafter amended the pleadings, but unfortunately at the time of arguments neither the said facts could be brought to the notice of the Bench by the learned counsel for parties nor could be noticed by the Bench which resulted in passing of the aforesaid directions by the Tribunal.

4. We do not agree with the contention of the learned counsel for respondents. In view of the fact that the Bench observed that "it would be appropriate in the circumstances of the case to remit the case to the appellate authority to decide the appeal in accordance with the law", we think that the Bench was aware of the fact that the appeal no longer was pending before the appellate authority and, therefore, it decided to remit the case back to the appellate authority for deciding the appeal in accordance with law. Further observation in the order would show that the appellate authority was directed to treat the

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delay in filing the appeal as condoned. It, therefore, appears to us that the appeal was not decided on merits by the appellate authority but was dismissed on the ground of limitation.

5. In the said background we are of the view that instead of raising such objections as are being raised before us, the appellate authority would have been better advised if it re-decided the appeal on merits and in accordance with the aforesaid directions of the Tribunal.

6. The very nature of pleas on behalf of the respondent shows that the order has not been complied with. We, therefore, now direct the respondent to dispose of the appeal within two months from today, otherwise a very serious view will be taken and the appellate authority may personally be required to remain present before us and to explain the delay in disposing of the appeal. No excuses in that event may be entertained.

7. Subject to observations and directions aforesaid, this contempt petition is hereby finally disposed of with liberty to the applicant either to

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file fresh contempt petition, if the appeal is not decided within the specified time or to take such steps that may be permissible in law, if the appeal is decided pursuant to the directions aforesaid.

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(K. M. Agarwal)
Chairman

Transmit by

(N. Sahu)
Member (A)

/as/