CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH: NEW DELHI

1. OA No. 759/89 Date of decision: 16.09.1993.

Shri Trilok Singh ...Petitioner

Versus

Union of India through the
Secretary, Ministry of Health
and Family Welfare, New Delhi & Ors. ...Respondents

2. OA No. 666/91

Shri Trilok Singh ...Petitioner

Versus

Union of India through the
Secretary, Ministry of Health
and Family Welfare, New Delhi & Ors. ...Respondents

Coram:- The Hon'ble Mr. I.K. Rasgotra, Member (A)
The Hon'ble Mr. J.P. Sharma, Member (J)

For the petitioner Shri K.C. Bamola, proxy counsel
for Shri Rishi Kesh, Counsel.

For the respondents Mrs. Raj Kumari Chopra,
Counsel.
Counsel.

Judgement(Oral)
(Hon'ble Mr. I.K. Rasgotra)

OA No.759/89 and OA No.666/91 are filed by the petitioner Shri Trilok Singh. As the subject matter agitated in both the OAs is broadly similar, we proceed to dispose of both the OAs through this common judgement.

2. The case of the petitioner is that benefits conferred on him vide our judgement dated 31.7.1987 in TA-185/86 have not been fully extended to him. In OA-759/89

he has prayed that the respondents should be directed to grant him all consequential benefits flowing from the decision of the Tribunal in TA-185/86. He has further prayed that the order of the respondents dated 10.2.1989 reinstating him as L.D.C. and fixing his pay at the various stages should be set aside. It is further prayed that the order issued on 14.8.1964, promoting him as U.D.C. should be ordered to be implemented and back wages etc. paid to him. We have perused the judgement dated 31.7.1987 in TA-185/86. The operative part of the said judgement is reproduced below:-

"20. In the result, we quash and set aside the impugned order passed by the respondents on 9.3.1963 stating that the applicant had deemed to have resigned his appointment and ceased to be in Government service w.e.f. 12.1.1963 a.n. Consequently, we direct that the applicant shall be reinstated forthwith as L.D.C. with all back wages and arrears due to him according to Rules treating him to be in continuous service from 21.1.1963 a.n."

3. The operative part of the said judgement was subject matter of interpretation in CCP-9/88 which was decided on 17.5.1988 when the Tribunal observed that "We are clear that in accordance with our judgement, the reinstatement of the applicant was unconditional and not subject to production of any medical certificate or any other rule. Reference to the rules, qualified the question of payment of back wages and arrears due to him. We, therefore, direct the respondents to reinstate the applicant as an LDC with effect from 12.1.1963 till the date he reports for duty without insisting upon a medical fitness certificates....."

4. Thus, as far as the petitioner is concerned the clear implication of our order was to reinstate him in service as L.D.C. w.e.f. 12.1.1963. He was also allowed the back wages. There is no other consequential benefits which are contemplated or flow from the judgement in T-185/86 dated 31.7.1987. The next order which the petitioner has impugned is that of 10.2.1989. It has been passed by the respondents in pursuance of the judgement of the Tribunal in T-185/86, reinstating the petitioner as L.D.C. and fixing his pay at various stages having regard to the increments which may be due to him in that scale of pay. The petitioner had challenged the said order in CCP No.162/88 which was disposed of on 1.3.1989. The relevant part of the said order reads as under:-

"They have also filed a copy of the order dated 10.2.89 showing the pay fixation done in the case of the petitioner for various periods from 12.1.1963 onwards. We are satisfied that the directions given by the Tribunal vide judgement dated 31.7.1987 have been substantially complied with. The learned counsel for the petitioner seeks to withdraw the C.C.P...."

5. In view of the order of the Tribunal in CCP-162/88 the petitioner cannot reagitate the same matter through this O.A. The next substantive relief prayed for by the petitioner is in respect of implementation of the order of the respondents dated 14.8.1964, according to which he was promoted as U.D.C. This issue is again covered by the decision of the Tribunal in CCP-162/88, as the order dated 10.2.1989 was passed in supersession of the order according to which he had been promoted as U.D.C. This order of 10.2.89,

as adverted to above was the subject matter of CCP-162/88 wherein the Tribunal had indicated that the respondentts have complied with the judgement dated 31.7.1987 to its satisfaction. In view of the above position, we are of the opinion that nothing survives in this O.A. and the petitioner is barred by the doctrine of res judicata from agitating the issues already concluded in TA-185/86. This petition, therefore, deserves to be dismissed. It is accordingly dismissed.

OA No.666/91

6. OA-666/91 filed by the same petitioner is to seek the following reliefs:-

i) to set aside and quash the impugned order dated 30th April/2nd May, 1990 retiring the applicant as LDC from the National Institute of Communicable Diseases, Delhi;

ii) to declare and hold that the applicant is liable to be retired as Superintendent, N.I.C.D. and not as LDC, NICD;

iii) to pay him all consequential financial benefits.

The impugned order dated 30.4/2.5.1990 reads as under:-

"Consequent upon attaining the age of superannuation Shri Trilok Singh, Lower Division Clerk, National Institute of Communicable Diseases, Delhi has retired from Government Service on the afternoon of 30th April, 1990 and his name has been struck off from the strength of this organisation with effect from the date i.e. afternoon of 30 April, 1990."

7. Since the petitioner retired on attaining the age of superannuation he cannot challenge the said order as illegal. According to the judgement of the Tribunal he has been reinstated in service and he had to retire on attaining the age of superannuation. The learned counsel for the respondents stated at the Bar that nobody junior to the petitioner was promoted to the next higher grade after his reinstatement. In that view of the matter and keeping in view of the hierarchy of posts in the office, the petitioner cannot claim the reach the level of Superintendent, National Institute of Communicable Diseases. The hierarchy does not such high-flying. This petition is, therefore, devoid of merit and is accordingly dismissed.

8. Consequently, OA No.759/89 and OA No.666/91 are dismissed through this common judgement. No costs.

(J.P. SHARMA)
MEMBER(J)

(I.K. RASGOTRA)
MEMBER(A)

San.

CERTIFIED TO BE TRUE COPY
Date

Section Officer
Central Administrative Tribunal
Principal Bench, Kamal Koop House
New Delhi