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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI

R.A.No. 4/93

Date of decision 4/1/93

in

O.A.No. 1815/92.

R.P. SHARMA

Vs.

Union of India & Ors.

In this Review Application, the applicant has requested for a review of the judgement dated 14.12.1992 whereby the application of the applicant was dismissed on the ground that the Bench had no jurisdiction over National Airport Authority (NAA) (Respondent No. 3). The applicant has stated in the Review Application that no relief had been sought against the NAA and the applicant having sent his unwillingness to be absorbed in NAA on 26.9.1989, the NAA had no authority to absorb him and the service ties between the applicant and respondents No. 1 and No. 2 i.e. Union of India and Director General of Civil Aviation had not snapped and respondent No. 3 (NAA) had no authority to deal with the applicant in any respect including order of his transfer. He has further contended that the NAA had no authority to unilaterally decide the matter about his absorption or repatriation.

2. It may be recalled that by letter dated 15th September,

1989 the National Airport Authority had invited for option regarding absorption in NAA or about intention of not becoming a regular employee of the NAA.

This letter clearly said that an employee who did not exercise the option for absorption or does not intimate his intention of not becoming a regular employee of the authority would be deemed to have been absorbed in NAA with effect from 2nd October, 1989. Both the National Airport Authority and respondents No. 1 and No. 2 have contended that the applicant had not sent his intimation of not becoming a regular employee of the NAA within the prescribed period and, therefore, he was deemed to have been absorbed in the NAA from 2nd October, 1989. The applicant states that he has sent a letter to the Secretary, Ministry of Civil Aviation & Tourism on 26th September, 1989 with copy to Director General of Civil Aviation intimating that he had no intention of getting himself absorbed in the NAA. Annexure V filed by the applicant shows that it was sent through proper channel. The applicant himself has stated in his letter dated 22nd April, 1992 that he 'regrets to note that his communication which was

actually submitted by him on 26.9.1989 in the O/O the Executive Director, Delhi Region has not been forwarded to you (Secretary, Ministry of Civil Aviation & Tourism and DGCA' - respondent No. 3 (NAA)). It ^{has} ^{been} stated in the counter that under the garb of some alleged letter dated 26.9.1989 receipt of which is disputed by the answering respondents, the applicant wants the stay of transfer which was made in the normal course. It has been clearly stated by the NAA that neither such option was exercised by the petitioner as alleged nor any such letter was received by the authority from the petitioner. Respondents No. 1 & 2 have also said that there is no record of such letter having been submitted by the applicant to answering respondents and, therefore he was deemed to have been absorbed in the NAA with effect from 2nd October, 1989.

3. Even a later communication dated 1.3.1990 from Administrative Officer, Office of the Executive Director, Delhi Region, IGI, Airport, New Delhi, showed that the applicant had not exercised his option for absorption and he was asked to do so for the purposes of processing his pension and ancillary matters. It seems that there was no response from the applicant for quite long even in respect

of this letter of 1st March, 1990. It is only after a lapse of more than a year i.e. on 4th October, 1991 that he sent a reference to the Ministry of Civil Aviation & Tourism that he had sent a letter intimating that his intention was not of becoming a regular employee of NAA and a letter dated 26th September, 1989 was addressed to the Secretary, Ministry of Civil Aviation and Tourism. In the Review Application, the applicant has stated that after sending his letter of 26th September, 1989 he reiterated his intention on subsequent occasion on 1.5.1991 and 6.9.1991. These references (of 1.5.1991 and 6.9.1991) are not enclosed either with the original application or with the review application. Even then it appears that the applicant woke up after about two years to reiterate his intention not to be absorbed, if at all it was a reiteration, since all the respondents have categorically denied having received any letter after 26.9.1989 from the applicant. The applicant was deemed to have been absorbed in NAA with effect from 2nd October, 1989 with reference to their letter of 15th September, 1989. The applicant was clearly told on 30th August, 1991 that he was deemed to have been absorbed

in the NAA with effect from 2.10.1989 with reference to his representation dated 10.5.1991.

4. In the event of non-receipt of any intention of the applicant not to be absorbed in the NAA before the prescribed date and the applicant having been deemed to have been absorbed accordingly there could be no question of directing the Ministry of Civil Aviation or DGCA to take back the applicant as he has not snapped his ties.

As mentioned before the applicant himself in his letter of 22nd April, 1992 (Annexure XVI) ^{stated} that NAA had not forwarded his option to Secretary, Ministry of Civil Aviation & Tourism or to DGCA. There was no alternative with respondents No. 1 & 2 except to treat the applicant as having been absorbed under the deeming clause. After having been so absorbed in NAA it was for that authority to take care of any grievance of the applicant. If at all the applicant had sent any intention not to get absorbed in NAA it is again for the NAA to examine their records since the applicant has himself admitted that he had given letter to NAA which was not forwarded to respondents No. 1 & 2. Therefore, all the aspects of the case rested with the NAA and since the

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NAA has not been brought under the jurisdiction of the Tribunal by a notification, no direction could be issued by the Bench to the NAA and, therefore, the application was dismissed in the absence of jurisdiction.

5. We see no good ground for review. The Review Application is, therefore, accordingly dismissed.

I.P. Gupta
I.P. Gupta 4/1/93
Member (A)

Ram Pal Singh
Ram Pal Singh 4.1.93
Vice-Chairman (J)