

(13)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI

O.A.No.709/92.

Date of decision 28.5.1993

Shri R.K. Yadav. ... Applicant

v/s

Union of India ... Respondents
and Others.

CORAM:

The Hon'ble Shri B.S. Hegde, Member (Judicial).

For the Applicant ... Shri V.P. Sharma, counsel.

For the Respondents ... Shri Jagjit Singh, counsel.

(1) Whether Reporters of local papers may be allowed to see the Judgement ?

(2) To be referred to the Reporters or not ?

J_U_D_G_E_M_E_N_T

This application has been filed under

Section 19 of the Administrative Tribunals Act,

1985 seeking relief for the grant of salary for

the period from 26.4.1983 to 10.4.1988. Accord-

ing to the applicant, he was not allowed to per-

form his duties as there were no dismissal orders

operating against the applicant after declaration

to the effect that the applicant is entitled to all the service benefits such as continuity in service, promotion, increment, fixation of pay etc. The petition has not been admitted by the Tribunal and after hearing the parties, it was felt, that the petition can be disposed of at the admission stage itself. Accordingly, heard the counsel for both the parties and reserved the case for orders.

2. Before going into the merits of the case, it would be advisable to state the background of the case. The applicant was appointed as Assistant Station Master in the Railways in the year 1957 and has been serving the respondents without any break in service. In the year 1979, the applicant was issued with a charge-sheet and an enquiry was conducted and after completion of the enquiry, he was not supplied with the Inquiry Report, nevertheless he was dismissed from the service with effect from 26.4.1983. The applicant challenged the show-cause notice of his punishment in the civil court by way of

(KPR)

filling a civil suit and the civil court, it is stated, has quashed the impugned order of show-case notice dated 19.2.1983 vide their judgement dated 30.1.1985 and directed the respondents to take the applicant on duty. Since, he was not taken on duty, he filed an application before the Chandigarh Bench of this Tribunal under O.A. No. 14/86. The Chandigarh Bench, after considering the case, passed an order on 27.6.1986, which is at Annexure 'A' and the case was remanded back for filing an appeal to the competent authority under the rules.

3. The contention of the applicant is that the order passed by the Appellate Authority is not a speaking order. He filed an application under O.A. No.148/87 before the Principal Bench. The Hon'ble Tribunal quashed the order of the Appellate Authority and the matter was remanded to the Appellate Authority to consider the nature of the charges, the facts and circumstances of the case, the fact of the admission of guilt and whether the penalty imposed

• •

[Signature]

vide order dated 31.12.1982 subsisted and should be maintained, may be considered by the Appellate Authority and pass suitable orders. Accordingly, the order dated 11.12.1986 issued by the Appellate Authority was quashed and the matter was remanded for consideration.

4. In the light of the aforesaid observations, the respondent was directed to pass a speaking order vide their order dated 19.10.1987. Pursuant to the Tribunal's Order, the applicant was reinstated as Assistant Station Master with effect from April 1988 with the observation that this is subject to a decision of the review petition filed by the administration in C.A.T. in O.A. No. 148/87. Accordingly, the respondents directed the applicant to report for duty for posting orders. Thereafter, the applicant made representation to the competent authority requesting them for payment of back wages from 26.4.1983 to 10.4.1988.

5. In view of the review petition filed by the respondents in R.A. No. 3/88 in O.A. No. 148/87, the Tribunal had clearly observed that in line 15 and 16

..

JKPLG/

of the judgement the words "as well as the dismissal from service" and the words " the order of dismissal was already quashed" i occurring in page 3 (line 6 and 7 at the bottom) are deleted. So far as the operative portion of the judgement is concerned, it is observed that no ground for review vide its order dated 17.5.1988.

6. The Learned Counsel for the respondents vehemently submitted that this application is not maintainable as the applicant had earlier filed another application being O.A. No. 1643/89 in this Tribunal. The applicant in that application challenged the charge-sheet dated 11.11.1982 on the basis of which ultimately the applicant was dismissed from service. In the said O.A. the applicant claimed the following reliefs :-

" The Hon'ble Tribunal pleased to

pass an order to the effect that the

impugned show-cause notice dated 27.6.89

(Annexure R-I) is illegal, unjust, arbitrary

PL/MS/PL

and against the relevant rules and also against the principle of natural justice and hence liable to be quashed. Further, the same is liable to be quashed. Furthermore, the charge-sheet is also ill-legal. The applicant is deemed to be in service for all purpose, such as back wages, bonus, seniority, promotion etc. along with the costs of the long litigation".

7. Again, the applicant has filed another O.A. No. 148/87 in this Tribunal. In the said application, the applicant has also challenged order of removal from the service dated 26.4.1983 and also claimed back-wages, bonus, promotion etc. The said application was decided in terms of judgement of this Tribunal dated 19.10.1987. In terms of judgement, though the order of the Appellate Authority was quashed, the Tribunal did not grant any consequential benefits including back-wages, promotion and other benefits from 23.4.1983 onwards, though the same were claimed in the said O.A. No. 148/87. Therefore, the respondents argued that the applicant cannot claim the same relief in this case. Besides, the application

By me

is hopelessly barred by limitation.

8. I have carefully considered the pleadings and arguments of both the parties and on perusal of the records, I am satisfied that there is considerable force in the contention of the respondents and the claim preferred in this O.A. by the applicant has already been adjudicated on earlier occasions and the relief claimed by him were not granted, though claimed. Accordingly, I am of the view, that the application is devoid of any merits, besides barred by limitation and thus the application is required to be dismissed. Accordingly, I dismiss the application in the light of the above but no order as to costs.

REKHA 26/3/93
(B.S. HEGDE)
MEMBER (J)