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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH:
NEW DELHI.

OA No.1013/92

Date of decision: *November 20, 1992*

Sh.Raghubir Singh ... Applicant
versus

Union of India through
Secretary, ...
Ministry of Home Affairs & ors...Respondents

CORAM: THE HON'BLE SH.P.C.JAIN, MEMBER(A)
THE HON'BLE SH.J.P.SHARMA, MEMBER(J)

For the Applicant ... Sh.B.B.Raval,
counsel.

JUDGEMENT

(DELIVERED BY HON'BLE SH.P.C.JAIN,
MEMBER(A))

In this OA under Section 19 of the Administrative Tribunals Act, 1985, the applicant, who while working as Junior Intelligence Officer-II, Intelligence Bureau, New Delhi was dismissed by the President vide order dated 6.6.83 (Annexure-A) under sub-clause (C) of the proviso to clause (2) of Article 311 of the Constitution of India, has assailed the above impugned order and has prayed for quashing the same, for reinstating him with all consequential benefits, and for awarding exemplary cost. As an interim relief, the applicant has prayed for a direction to the respondents to put him back on duty with immediate effect, or, in the alternative to direct the respondents

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to pay a monthly subsistence/survival allowance of Rs.1500/- per month pending disposal of this OA.

2. We have perused the material on record and also heard the learned counsel for the applicant. It is clear that the applicant challenged the impugned order dated 6.6.83 by filing Civil Writ Petition No.1773/83 in the High Court of Delhi on which a show cause notice was issued to the respondents in pursuance of which a counter-affidavit was filed. After hearing the learned counsel for the parties therein and perusing the counter-affidavit filed by the respondents in that case, the aforesaid civil writ petition was dismissed by the Delhi High Court at the stage of show cause notice by an order passed on 2.12.83. A copy of that order placed at Annexure A-3 leaves us in no doubt that the order impugned in the OA before us as well as in the civil writ petition was the same order and that the writ petition was disposed of on merits. The principal parties in the two cases were also the same. Accordingly, this OA is barred by the doctrine of res judicata and is as such not maintainable.

3. The learned counsel for the applicant

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stressed that before the impugned order of dismissal was passed against the applicant, he along with one Sh.Dharam Singh, Assistant Sub Inspector, Delhi Police (⁴~~on~~ that time a Junior Intelligence Officer Grade-I(M/T) on deputation in IB from Delhi Police) were implicated falsely in a case in which FIR No.91 of 1983 under Sections 3&5 of the Official Secrets Act read with Section 120(B) I.P.C. was lodged on 25th/26th February, 1983. But in that case they were discharged by the Metropolitan Magistrate by an order passed on 6.11.84. It is further contended that while Shri Dharam Singh was ultimately reinstated by revoking his suspension order and repatriated to Delhi Police where he has since been promoted as Sub Inspector, the applicant is being discriminated against on the same ground. It is further stated that on the recommendations of the Advisory Board, the detention of the applicant under National Security Act was revoked. He, therefore, contended that the material alleged against him and which was the basis of the impugned dismissal order, having not been substantiated, as is evident from his discharge from the criminal case and revocation of his detention under NSA, cannot be sustained, particularly when his co-

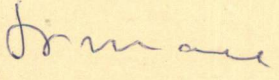
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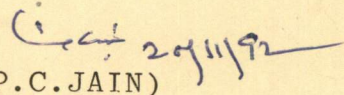
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accused in the criminal case has not only been reinstated in service but also promoted.

4. We have given our careful consideration to the above contentions and are of the considered view that these are not relevant to the issue before us. The impugned order of dismissal from service does not state or show that the dismissal of the applicant was ordered because of the registration of a criminal case against him. Further, Shri Dharam Singh is not similarly placed inasmuch as no such order is passed by the President in his case and the action taken against him, if any, was not challenged by him in any judicial proceedings, as can be seen from the material on record placed before us, in this case.

5. In the light of the above discussion, we are of the considered view that this OA is not maintainable as this is barred by doctrine of res judicata and is accordingly dismissed at the admission stage itself.


(J.P.SHARMA)
MEMBER(J)


(P.C.JAIN)
MEMBER(A)