

**IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW DELHI**O.A. No. 17700/93

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T.A. No.DATE OF DECISION 3.9.93Shri T. SagarPetitionerShri J.P. VergheseAdvocate for the Petitioner(s)**Versus**I.C.A.R.RespondentAdvocate for the Respondent(s)**CORAM****The Hon'ble Mr. J.P. Sharma, Member (Judl.)****The Hon'ble Mr. B.K. Singh, Member (A)**

1. Whether Reporters of local papers may be allowed to see the Judgement ?
2. To be referred to the Reporter or not ?
3. Whether their Lordships wish to see the fair copy of the Judgement ?
4. Whether it needs to be circulated to other Benches of the Tribunal ?

JUDGEMENT

(of the Bench delivered by Hon'ble
Mr. J.P. Sharma, Member)

The applicant was proceeded against departmentally by the memo. dated 15.3.1983 under Rule 14 of the CCS(CCA) Rules, 1965 as extended to the I.C.A.R. He was served with a charge-sheet and the disciplinary authority agreeing with the findings of the Enquiry Officer, passed the order dated 28.6.1985 imposing the penalty of removal from service. The applicant preferred a writ petition before the High Court which was transferred to the

Principal Bench, C.A.T. and registered as T-118/87.

This transferred application was decided by the Division Bench on 10.7.1992 by which the order of punishment dated 28.6.1985 was quashed as well as the report of the Enquiry Officer and the case was remitted back to the disciplinary authority to proceed with the enquiry according to law. It was also directed that the enquiry be completed within 8 months from the date of receipt of a copy of this order. It was also observed that following the date of this order, the applicant shall be deemed to be under suspension till orders are passed by the disciplinary authority after the enquiry as directed above.


2. In this application, the applicant has alleged that the respondents have received the copy of the aforesaid judgement on 20.7.1992 and the eight months' period given by the judgement referred to above on 10.7.1992 has since expired some time in March, 1993. So, the applicant be declared to be reinstated in service as on 28.6.1985.

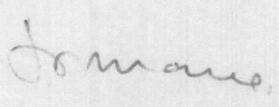
3. We have heard the learned counsel on the point of admission. The issue of reinstatement of the applicant cannot be considered because the matter has already been decided in the judgement of T-118/87 by

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which the applicant was shall remain under suspension till the disciplinary authority passes a final order in the enquiry which has been remitted by the aforesaid judgement for enquiry on the memo. issued to the applicant dated 15.6.1983. The learned counsel for the applicant argued that this is a different cause of action and he need not file a civil Miscellaneous Petition in that regard and referred to certain authorities on the subject. In fact, that is not the issue involved, nor the proposition of law is being disputed. The relief claimed by the applicant is that he should be deemed to be in service w.e.f. 28.6.1985. This relief was not prayed for in the earlier O.A. (T-118/87) and if prayed for, it was not granted. Such a relief, therefore, cannot be granted, nor has any new cause of action arisen to the applicant for the grant of this relief. The only grievance of the applicant is that the enquiry had not been completed in eight months and for that, he could have only prayed, if so advised, for quashing of the memo. of issuing the charge-sheet dated 15.6.1983. The application, therefore, does not make out a prima facie case and is dismissed under Section 19 of Clause (3) of the A.T. Act, 1985. No costs.


(B.K. Singh)
Member(A)


(J.P. Sharma)
Member(J)