

Central Administrative Tribunal
Principal Bench

O.A. No. 820 of 1993
M.A. No. 183 of 1998

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New Delhi, dated this the 30th October, 2000

HON'BLE MR. S.R. ADIGE, VICE CHAIRMAN (A)
HON'BLE DR. A. VEDAVALLI, MEMBER (J)

Shri Sunil K. Aggarwal,
Asst. Executive Engineer,
Military Engineer Service,
O/o the Chief Engineer, Delhi Zone.
Delhi Cantt-110010. .. Applicant

(Applicant in person)

Versus

1. The Secretary to the
Government of India,
Ministry of Defence,
DHQ P.O., New Delhi-110011.
2. The Secretary to the
Government of India,
Ministry of Personnel &
Administrative Reforms,
New Delhi-110001.
3. The Chairman,
Union Public Service Commission,
New Delhi-110011. .. Respondents

(By Advocate: Shri V.S.R. Krishna)

ORDER

MR. S.R. ADIGE, VC (A)

Applicant had filed this O.A. No. 820/93
claiming the following reliefs:

- i) Respondents be directed to amend the provision of reservation of 33 1/3% of vacancies of Executive Engineer Group A for Assistant Engineer Group B on quota basis by passing the eligible A.E.E. Group A.
- ii) Respondents be directed to revert the departmental promotee A.E. Group B who have been promoted to the post of Executive Engineer under application of the above rule and reallocate these vacancies to the eligible A.E.E. Group A who have their first charge on any vacancy for the post of Executive Engineer that

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arises in the sanctioned establishment as per M.E.S Class I (RPS) Rules, 1949.

iii) that respondents be directed to invite suggestions/representations on SRO 4 E dated 9.7.91 through a Gazette Notification as per provision contained in Chapter XI - Subordinate Legislation of the Manual for Handling Parliamentary Work in the Ministries published by Cabinet Secretary, Government of India.

iv) Respondents be directed to restrain from reservation of certain percentage of posts for the Army Personnel under the authority of SRO 19E dated 13.7.89 issued under Army Act, 1950.

2. The O.A. came up for hearing along with O.A. No. 541/95 PPS Dhanjjal & Others Vs. U.O.I. & Others and connected O.As before C.A.T., P.B. who by their common order dated 11.9.96 dismissed all the O.As. In respect of present O.A. No. 820/93 the reliefs (iii) and (iv) were rejected and it was ordered that O.A. No. 820/93 would be heard on relief (i) and (ii) alone.

3. SLP (C) No. 1156/97 was filed against that order dated 11.9. 96 in Hon'ble Supreme Court which was dismissed on 28.1.97 with the following order

"Delay condoned. Hard counsel at length. The SLPs are dismissed on merits."

4. This O.A. thereafter again came up for hearing on 2.9.98. None appeared on behalf of ~~respondents~~ ^{applicant}. The Bench in its oral order dated 2.9.98 noted that in its earlier order dated 14.7.98 dismissing applicant's M.A. No. 183/98, ^{it} had held that there was no justification for reviving reliefs (iii) and (iv) as these claims stood rejected and

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confirmed by an order of the Full Bench of the Tribunal and upheld by the Hon'ble Supreme Court in SLP (C) 1156/97 PPS Dhanjjal Vs. U.O.I. & Others from the C.A.T., P.B. order dated 11.9.96 in O.A. No. 541/95, which had dismissed the SLP on merits. As regards reliefs (i) and (iii), the same were dismissed by aforesaid order dated 2.9.98.

3. Applicant thereupon filed R.A. No. 253/98 seeking review of the order dated 14.7.98 and R.A. No. 254/98 seeking review of the order dated 2.9.98. Notice to respondents was issued on the same, but as no reply was filed by respondents opposing the aforesaid R.As despite adequate opportunity granted to them to do so, and ^{as} the impugned orders dated 14.7.98 and 2.9.98 had been passed without giving applicant a hearing; the two R.As were allowed by order dated 26.7.2000 and O.a. No. 820/93 as well as M.A. No. 183/98 were ordered to be put up for hearing afresh.

4. When the case came up for hearing on 21.8.2000 applicant invited attention to the Bench order dated 20.4.98 and Shri V.S.R. Krishna who appeared for respondents was granted two weeks time to file a detailed affidavit covering applicant's objections, and noted in our order dated 20.4.98.

5. Shri Krishna filed the affidavit in the Registry on 13.10.2000, with copy to applicant, who upon the body of the same, recorded in his own handwriting on 13.10.2000, has observed that it is

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without memo of appearance, annexure MA 2 ~~is~~ missing and Shri V.N. Murthy who signed the affidavit is not competent to sign it.

6. The case came up for hearing on 17.10.2000. Applicant was present in person and was heard. Shri V.S.R. Krishna appeared for respondents. At the outset applicant raised the objection that Shri Krishna was not empowered to represent respondents as he had not filed Memo of Appearance and secondly that respondents in the O.A. were Secretary, Defence Ministry; Secretary, Dept. of Personnel & Training and Chairman, UPSC and Lt. Col. Murthy who was an Army Officer was not empowered to swear the affidavit on behalf of respondents. Applicant has made submissions on the merits of the case, during the course of which inter alia he has also contended that this Bench cannot take cognizance of the Tribunal's aforesaid order dated 11.9.96, particularly as he has filed an R.A. against the order rejecting his ¹reliefs (iii) and (vi) and confining hearing only to reliefs (i) and (ii), which has not been disposed of as yet.

7. Applicant's contention that the Bench cannot take cognizance of the Tribunal's order dated 11.9.96 is rejected outright. We have extracted in full the Hon'ble Supreme Court's order dated 28.1.97 dismissing the SLP challenging the aforesaid order dated 11.9.96 on merits after lengthy hearing. That order of the Apex Court dated 28.1.97 constitutes the law of the land, and not taking cognizance of the

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same, besides amounting to contempt of the Hon'ble Supreme Court's order, would amount to disregarding the law.

8. As the Hon'ble Supreme Court by its order dated 28.1.97 has dismissed the SLP challenging the C.A.T., P.B. order dated 11.9.96 (supra) which inter alia had rejected reliefs (iii) and (iv) in the present O.A. applicant cannot be permitted legally to reagitate the same again before this Bench.

9. We are then left with reliefs (i) and (ii). It is clear that relief (ii) would arise only if relief (i) were allowed. In relief (i) applicant is challenging item 6 in Schedule III to SRO 4E notified on 9.7.91 (Annexure A-4).

10. In this connection we have carefully perused the Tribunal's order dated 2.9.98 rejecting applicant's claim to reliefs (i) and (ii). One of us [Hon'ble Dr. A. Vedavalli, Member (J)] was a party to that order dated 2.9.98 and for the reasons contained therein and particularly the ~~various~~^{various} ~~various~~^{rulings} which have been cited, we find no reason to take any different a view in this matter, after hearing applicant in person.

11. Under the circumstances, we find ourselves unable to grant the reliefs prayed for by applicant. O.A. No. 820/93 and M.A. No. 183/98 are dismissed. No costs.

A. Vedavalli
(Dr. A. Vedavalli)
Member (J)

S.R. Adige
(S.R. Adige)
Vice Chairman (A)

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