

(X)

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH: NEW DELHI

OA No.995/93

Date of decision: 24.8.93

Nathi Ram Bhardwaj

...Applicant

Versus

Union of India & Others

...Respondents

CORAM:

THE HON'BLE MR. J.P.SHARMA, MEMBER(J)
HON'BLE MR. S.GURUSANKARAN, MEMBER(A).

Shri S.R.Dwivedi ... Counsel for the applicant

None ... For the respondents

JUDGMENT

(Delivered by Hon'ble Mr. J.P.Sharma, Member(J))

The applicant is employed as Sorting Assistant (LSG), RMS, Delhi. His grievance is that the period from 15-10-81 to 23-8-82, i.e., a period of ten months and ten days, has been treated as Dies-non and prayed that the said period be treated as a period of leave as due and admissible to him.

2. We heard the learned counsel on admission. The present application is barred by the principles of constructive res judicata. The applicant has earlier filed Civil Suit NO.409/85 in the Court of Senior Sub Judge, Delhi on 6-4-85 wherein he has prayed for a declaration that he continued to remain in continuous service and is entitled to all the dues, salary, benefits and promotion and if he had been promoted by the first list dated 31-3-84

16



and for declaration that the period between 15-10-81 to 25-8-83 be treated as period of duty and for consequential directions for payment of all the dues including increments and grant of proper seniority. The applicant went on medical leave when order of transfer was passed on 23-4-81 posting him to Air Mail Sorting Division, New Delhi. He made an application on 14-6-81 for grant of further relief and then he sought further leave upto 14-7-81. However, the applicant produced the medical fitness certificate only on 4-8-82. He was allowed to join on 26-8-83 and after his joining, the authorities have treated the period from 15-6-81 to 14-7-81 and 15-10-81 to 25-8-83 as Dies-non. It is with regard to the second period from 15-10-81 to 25-8-83, the applicant has claimed the relief for grant of any kind of leave due to him. The Tribunal considered the matter in TA No.446/86 decided on 13-4-92, as the Civil Suit got transferred to the Principal Bench under Section 29 of the Administrative Tribunals Act, 1985. In para 4 of the judgment, the Tribunal held that decision of the authorities in treating this portion of the period from 15-10-81 to 25-8-83 as Dies-non does not call for interference.

3. After the decision of this judgment, the applicant again made representation on 19-5-92. No such relief now can be granted to the applicant which has already been

adjudicated in TA 446/86, a copy of the judgment being enclosed as Annexure A-3 to the application.

4. The application is, therefore, not maintainable and is dismissed as barred by principles of res judicata. No costs.

S. GURUSANKARAN
(S.GURUSANKARAN)
MEMBER (A)

'PKK'
21081993.

J.P.SHARMA
24.8.93
(J.P.SHARMA)
MEMBER (J)

Done by me
J.P.SHARMA
24.8.93