

CENTRAL ADMINISTRATIVE TRIBUNAL

ALLAHABAD BENCH

THIS THE 12TH DAY OF AUGUST 1997

Original Application No.331 of 1996

HON.MR.JUSTICE B.C.SAKSENA,V.C.

HON.MR.S.DAS GUPTA, MEMBER(A)

Rajender Kumar Gupta, s/o Sri Ram
Krishna Gupta, Civilian Store Keeper
Head Quarter Sqn 2, Armed Brigged
Babbina, Jhansi

..Applicant

By Advocate Sri G.S.D. Mishra

Versus

1. Union of India through
Adjustment General Branch
Army Head Quarter, New Delhi

2. Adjustment General Branch
Organization, DTE(Orgl4
Civil) (b) Army head
Quarter, New Delhi

2. Officer Commanding Head Quarter
H.Q Sqn 2 Armed Brigade
C/o 56 APO Babbina
District Jhansi

.. Respondents

O R D E R (Reserved)

JUSTICE B.C.SAKSENA,V.C.

We have heard the learned counsel for the applicant when the case was taken up for orders as regards admission. The applicant through this OA challenges orders dated 14.10.93 and 27.9.85. By order dated 27.9.85 the applicant's services were terminated.

2. Feeling aggrieved by the said order the applicant filed OA no. 169/87. The said OA was finally decided by an order passed on 2.9.92, copy of the same is Annexure 5 to this OA. In the opening part of the said order we find that the Division Bench had noted that the said OA is directed against a removal order dated 27.9.85. We do not, however, find any adjudication with regard to the said order of termination. In the operative part of the order

B.C.S.

passed in the said OA shows that the respondents were directed to consider the case of the applicant for employment, absorption or regularisation, in case any junior of him were so regularised or absorbed or given employment. Pursuant to the same the applicant appears to have filed a representation. The said representation was considered in the light of legal opinion tendered by one Sri K.C. sinha Advocate Allahabad, the then standing counsel for the respondents. Through this letter the request for employment of the applicant has been replied to and it has been indicated that since neither H.Q Sqn nor our headquarter has employed any junior to the applicant nothing can be done from their end for his employment.

3. It is also relevant to indicate that when the applicant received no response to his representation filed by him pursuant to the direction in OA 169/87 the applicant filed a contempt petition no. 1065/93. By an order passed on 21.9.95 a Division bench took the view that the contempt petition cannot be taken cognizance in view of Section 20 of the Contempt of courts Act since more than one year had lapsed. However, the bench further proceeded to state that from the facts available since the representation has been decided the Division Bench did not find any willful disobedience of the order was done. The contempt petition has been dismissed. The applicant has now filed this OA challenging the initial order of termination dated 27.9.85 as also the order dated 14.10.93 passed on his representation.

4. We put it to the learned counsel for the applicant to indicate how this OA is maintainable against the order dated 27.9.85. That was the subject matter of the earlier OA No. 169/87 and the Division bench had not quashed the said order. The learned counsel for the applicant submitted that the Division bench no doubt has not set

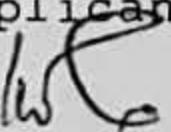
RDR

:: 3 ::

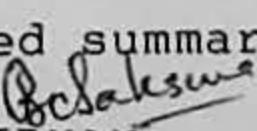
aside the order dated 27.9.85 but it directed that a representation to be filed and had provided that if any one junior to the applicant has been considered and has been absorbed though the services of the applicant has been terminated but the respondents are directed to consider the case of the applicant for employment.

5. The learned counsel submitted that in his representation the applicant had indicated the names of two persons viz H.N. Pastoor and Satyavrat as the junior whose services were continued and they have been offered alternative employment at the Shakoorbasti Ordinance Depot. This fact has also been averred in a misc application dated 29.8.96. We further find that there is reference with regard to these two persons in the order passed by the Tribunal in OA 169/87 and it has been noted that the two persons have been posted at various units like NCC Gwalior and Shakoorbasti Ordinance depot. In the said decision we do not find any adjudication that these two persons were junior to the applicant. This is evident from the fact that despite having noted the absorption of the said two persons have given the direction as noted hereinabove. The respondents have stated in the order dated 14.10.93 that no one junior to the applicant has been absorbed in the said Head quarters or in the Sqn 2 Armed Brigade(Jhansi). The applicant has not indicated any other name and also has not controverted this statement of facts.

6. In view of the above, though the OA challenging the order dated 27.9.85 was clearly barred by limitation, even on consideration of the matter on merits we do not find any case made out ^{to} /quash the communication dated 14.10.93 nor we find any case made out to grant any relief to the applicant.


MEMBER (A)

The OA is accordingly dismissed summarily.


VICE CHAIRMAN

Dated: August, 19 1997