

CENTRAL ADMINISTRATIVE TRIBUNAL

ALLAHABAD BENCH

THIS THE 24TH DAY OF OCTOBER, 1997

Original Application No. 879 of 1996

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

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

Binda Prasad, S/o Ramadhin
R/o 85/64, Shanker Millkhanwa
Raipurva, Kanpur.

.. .. Applicant

Versus

1. Union of India through the General Manager
Northern Railway, Baroda Bhawan
New Delhi.
2. Divisional Railway Manager
Northern Railway, Allahabad.
3. Senior Divisional Mechanical Engineer
Northern Railway, Allahabad.
4. Superintendent Carriage Wagon
Central Station, Northern Railway
District Kanpur Nagar

.. .. Respondents

O R D E R(Oral)

JUSTICE B.C.SAKSENA,V.C.

We have heard the learned counsel for the applicant. The applicant states that he had filed a civil suit no. 80/7/86 in the Court of Nagar Munsif district Kanpur Nagar. An application for interim injunction was also filed. On that an order was passed on 6.2.86 by the learned Munsif copy of which is Annexure 3 to this OA. In the said order it was noted that the applicant has been removed from service without having followed the course of law and forbidden to attend his duties w.e.f. 4.2.86. The learned Munsif in the circumstances, ^{ordered}

"If the plaintiff has not yet been served with the dismissal order, he shall not be served ~~by~~ the same in the meanwhile and shall continue to attend his duties as ^{hitherto} hitherto-to-fore"

A notice was issued to the defendants returnable by 26.2.86.

From the averments in the OA it appears that the defendant filed an application on 14.3.86 copy of which is Annexure 6. The defendants therein indicated that the matter is cognizable by the Administrative Tribunal and therefore the plaintiff did not have any right to file the suit before the civil court. On the basis of this an order is stated to have been passed by the learned Munsif on 29.4.86 copy of which is Annexure 7. The learned Munsif held that since the Central Administrative Tribunal has come into force on 27.2.85 the suit should have been filed before the Tribunal hence the plaint was returned to the Tribunal having jurisdiction to try the suit. The applicant in the OA has also made the positive averment that the plaint was returned to the learned counsel appearing for the plaintiff (the applicant in this OA).

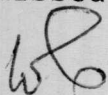
2. The applicant has further stated that he had been contacting his counsel who indicated that the record of the suit shall be transmitted by the court itself to the Tribunal and consequently the applicant has been awaiting the transmission of the record to this Tribunal. Subsequently ^{he} ~~on~~ finding out the transmission of the record has not been done. We are not impressed with this story. Once it is stated that the plaint was returned to the learned counsel nothing remain pending with the civil court to be transmitted to this Tribunal. The order passed by the learned Munsif on 29.4.86 quoted hereinabove clearly required the applicant to present the said suit before the court of the Tribunal having jurisdiction to try the same. The applicant has been grossly negligent in not filing the OA well within the time. The OA was filed in the year 1996 after a lapse of almost 10 years from the date the plaint was returned.

3. The learned counsel for the applicant strenuously urged before us that the applicant may not be made to suffer on account of the lapse or negligence of his counsel who was appearing for him before the learned Munsif. This is a matter

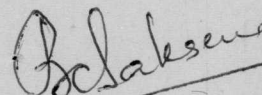
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between the applicant and his said counsel. We need not make any further comments.

4. The applicant through this OA challenges an order of dismissal from service which is stated to be of the year 1986. The OA is clearly barred by limitation and is accordingly dismissed summarily.



MEMBER(A)



VICE CHAIRMAN

Dated: 24th october, 1997

Uv/