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(Reserved)(Bench No.1)
CENTRAL ADMINISTRATIVE TRIBUNAL,

ALLAHABAD.

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Registration No. 45 of 1986.

Mange Ram - - - - vs- - - - Union of India and others.

Hon'ble S.Zaheer Hasan, Vice Chairman.

Hon'ble Ajay Johri, Member(A).

(Delivered by Hon'ble S.Zaheer Hasan, V.C.)

This is an application under Section 19 of the Administrative Tribunals Act (No. 13 of 1985) for quashing the order of removal dated 17.7.1965 with a prayer that the applicant be treated as reinstated in service instead of re-employed with effect from 16.9.1971. It was further prayed that the applicant may be notionally promoted and the salary under the rules be paid.

Applicant Mange Ram was working as leading hand driver in the Air Force. He made direct representation to higher authorities against the rules. Disciplinary proceedings were started against him in February 1965. Ultimately these proceedings were dropped and the applicant was transferred. He again made some representations against the rules. He was again charge-sheeted. Ultimately on 17.7.1965 he was discharged from service with no disqualification for future employment. On 16.10.1971 he was appointed as civil MTD in temporary capacity with effect from 18.9.1971 till further orders. On 30.6.1979 the applicant retired in due course. He made a number of representations to various

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authorities. His last representation was rejected on 31.1.1984. The present application was moved in this Tribunal on 24.1.1986. The applicant had filed a suit in the court of Munsif, Kanpur in the year 1969 which was dismissed on 26.5.1971 because the plaintiff (applicant) did not appear and the defendants were represented through a counsel. According ~~xx~~ to the applicant he got the suit dismissed because the Department promised to re-instate him. So, instead of passing a reinstatement order the respondents wrongly passed a re-employment order on 16.10.1971 and in that capacity the ~~xx~~ applicant worked till 30.6.1979 when he retired in due course.

According to the defence, the applicant filed a suit ~~xx~~ which was dismissed in default of plaintiff's appearance. This suit was not restored. The order of dismissal was ~~xx~~ challenged in this suit and this order has not yet been set aside. It appeared that on humanitarian ground the applicant was re-employed and no undertaking was given that he would be re-instated as alleged by the applicant. So, the only point argued before ~~xx~~ us was whether any undertaking was given by the respondents to reinstate the applicant or they re-employed him on humanitarian ground.

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The applicant was a leading hand driver. He ~~xx~~ violated the rules of the AirForce regarding discipline. He refused to obey the transfer order. Ultimately on 17.7.1965 he was removed from service and discharged from the Air Force with the remark that this removal would not be a disqualification for future employment. In 1967 the applicant filed a suit in the court of Munsif which was dismissed on 26.5.1971. In this suit he had challenged the order of dismissal. The suit has not been restored.

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The authorities have not vacated the order of removal. So, the order of removal dated 17.7.1965 stands. According to the plaintiff he got the suit dismissed because he was told by the C.C.O. Sri Chhaman Singh to sign the paper if he wanted to resume his duties. The applicant appears to be literate because he has signed a paper on 11.9.1971 in which he has stated that he would not file any suit for the claim of his previous service and he was being offered a post as fresh entrant. This paper has been signed by two witnesses. On 16.10.1971 the applicant was appointed in a temporary capacity as M.T.D. in the scale of Rs. 110-139 with the observation that the post was likely to continue. Ultimately in that capacity he retired in due course on 30.6.1979. His own writing dated 11.9.1971 goes against his case of re-instatement. However, he was appointed on 16.10.1971. He is ~~is~~ a literate person and soon after this appointment he did not make any representation that he was deceived as alleged. He has made a vague allegation that later on (no date or time has been given) he came to know that it was a new appointment. On 23.11.1971 the authorities relaxed the age limit. The applicant's undertaking dated 11.9.1971 coupled with the appointment order dated 16.10.1971 clearly suggests that probably on humanitarian ground the authorities re-employed him and it was not a case of re-instatement.

No other point was pressed before us.

The application is rejected with costs on parties.

September 18, 1986.
R.P.

Yours
Vice Chairman.

3/9/86
Member (A).