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Reserve

Central Administrative Tribunal, Allahabad
Registration No. 265 (T) of 1986.

Union of India Applicant
Vs.

Mahendra Pratap Singh
and 24 others Respondents.

Hon. D.S. Misra AM
Hon. G.S. Sharma, JM

(By Hon. G.S. Sharma, JM)

This is an application under sections 151 and 152 of the Code of Civil Procedure received by transfer from the Court of Munsif Moradabad under section 29 of the Administrative Tribunals Act. The respondent Mahendra Pratap Singh had filed suit no. 252 of 1974 in the Court of Munsif Moradabad against the applicant-Union of India. The other respondents were impleaded as defendants in that case afterwards as the plaintiff had challenged their promotion. The said suit was decreed ex-parte on 28.7.1983. For setting aside the ex-parte decree, the applicant- Union of India filed Misc. Case No. 55 of 1983 before the Munsif on 26.8.1983 but the said case was dismissed in default on 22.2.1985. For the restoration of that case, the Union of India moved the present application, which was registered as Misc. Case No. 22 of 1985.

2. We have given a careful thought to the maintainability of this case before the Tribunal

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and are of the view that the proceedings under sections 151 and 152, Order 9 Rule 9 and Order 9 Rule 13 of the Code of Civil Procedure are not the proceedings covered under section 29 of the Administrative Tribunals Act as they are not service matters. These proceedings arise irrespective of the nature of the suit and unless the suit is restored after setting aside the dismissal order passed in default of the plaintiff or after setting aside an ex-parte decree, the proceedings cannot relate to service matter. Such proceedings have to be dealt with by the Civil Court concerned and only when such proceedings are allowed and the suit is restored, such suit shall stand transferred to the Tribunal. We have, therefore, no jurisdiction to decide this case, which has been wrongly transferred by the learned trial Court.

3. Let the record of this case be returned to the Court concerned for deciding it according to law. Parties are directed to appear there on 1.12.1986.

Bhima
Member (A) *16.10.86*

Sundararao
Member (J) *16/10/86*

Dated 16-10-1986
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