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CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH

....

Registration T.A. No. 1094 of 1986

Nand Jee & others Petitioners

versus

Union of India and others.... Opposite Parties

Hon' D.K. Agrawal, J.M.

Hon' K. Opayya, A.M.

(By Hon' D.K. Agrawal, J.M.)

Civil Suit No. 1141 of 1985, instituted in the Court of Munsif City Kanpur, on transfer to the Tribunal under section 29 of the Administrative Tribunals' Act, 1985, was registered as T.A.No. 1094 of 1986, as indicated above.

2. The prayer in the Suit is to the effect that
" (a) A decree for a declaration that the order No. 64 dated 16-1-1984 is illegal, ultra-vires and without jurisdiction. "

3. On perusal of the impugned order dated 16-1-1984, it is discovered that the name of plaintiffs 1, 3, 9, 10 and 14 only appeared there. The name of other plaintiffs do not find place in the aforesaid impugned order. Therefore, we are unable to understand as to how the plaintiffs other than 1, 3, 9, 10 and 14 have got a cause of action to file the present suit or seek a declaration as prayed. The learned counsel for the applicant was also unable to explain the same.

4. The ^{background} documents in which, the above impugned order dated 16-1-84 was passed is like this:
There was an order from Ordnance Factory Board

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laying down conditions for change of category of employees from non industrial establishment to industrial establishment. Amongst other conditions, one of the conditions was that before re-designation is accepted, a written undertaking from the individual is to be obtained that he is willing to forgo benefits of NIE service like seniority etc. (except pension) and that in future, he will not seek re-transfer to NIE. In pursuance of the said order, the plaintiffs 1, 3, 9, 10 and 14 gave a declaration available in the record of the ^{factory} ~~section~~ and the same has been perused by us. It was only after the declaration of the above said ^{plaintiffs} ~~plaintiffs~~ that the impugned order dated 16-1-1984 was passed. Thus, in our opinion, there was no cause of action for the plaintiffs aforesaid, to institute this suit, i.e. the plaintiffs were estopped to seek a decree for cancellation of the impugned order. In this view of the matter, we are of the opinion that the plaintiffs 1, 3, 9, 10 and 14 had no cause of action to file the present suit. The plaintiffs other than the aforesaid 5 plaintiffs have been unnecessarily impleaded. The suit is liable to be dismissed.

5. In the result the suit of the plaintiffs is dismissed with no order as to costs.

MEMBER (A)

MEMBER (J)

(sns)

November 28, 1990

Allahabad.

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