

Central Administrative Tribunal
Allahabad.

Registration T.A.No.83 of 1987(W.P.No.30 of 1986)

Gopi Nath ... Petitioner

Vs.

Union of India and 2 others ... Respondents.

Hon. Ajay Johri,AM
Hon.G.S.Sharma,JM

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

This writ petition in respect of the service matters of the petitioner who is a railway employee was filed in the High Court of Judicature at Allahabad on 1.1.1986 and a Division Bench of the said Hon'ble Court vide its order dated 6.1.1987 ordered to send the record of this case to the Tribunal. The maintainability of this writ petition before the Tribunal has been challenged on behalf of the respondents and on 26.10.87 a Bench of the Tribunal had ordered that in view of the decision of the Full Bench of the Allahabad High Court, the respondents are at liberty to move the High Court for recalling its order dated 6.1.1987. The respondents, however, did not take any steps ~~to~~ before the High Court and have raised the preliminary objection regarding the maintainability of this petition before us again and their contention is that the record of the writ petition having been transmitted to the Tribunal it is not practicable for the respondents to move the High Court for recalling its order dated 6.1.1987. On the other hand, the contention advanced on behalf of the petitioner before us is that instead of going into the technical objection of the respondents, the Tribunal should entertain this petition and may convert it into an original application u/s.19 of the Administrative Tribunals Act XIII of 1985, if necessary.

2. We have heard the learned counsel for the parties on the preliminary question regarding the maintainability of this petition. A Full Bench of the Allahabad High Court in Udai Bhan Singh Chauhan

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Vs. Union of India (A.I.R. 1987 Allahabad-269), had held that the writ petitions¹ relating to service matters filed after November 1, 1985 will have to be dismissed with liberty to the parties to approach the Central Administrative Tribunal and the writ petitions filed earlier to the said date shall stand transferred to the Tribunal for disposal in accordance with law. Though this writ petition was transferred to this Tribunal by the High Court before the Full Bench decision, the principle laid down in the said case will apply and the only proper course open to us is that we should return the record to the High Court for passing such order as it may deem fit in the light of the decision of the Full Bench. A similar view was taken by a Bench to which one of us was a party in R.K.Singh Vs. Union of India ~~to A.No. 159 OF 1986 Connected with T.A.Nos. 711 of 1987 and 712 of 1987 and decided on 9.5.1988~~.

3. Regarding the contention of the petitioner, we are of the view that this Tribunal can entertain an original application u/s.19 of the Act only if it is filed in accordance with the provisions of the Section and any plaint, writ petition or other applications etc., filed elsewhere and wrongly sent to the Tribunal cannot be treated as an application u/s.19 of the Act. The provisions of S.29 of the A.T.Act do not apply to a suit or writ petition filed after 1.11.1985 and as such, they did not stand transferred to the Tribunal by operation of law within the meaning of S.29 and we have to ignore the same as we cannot act upon the same. The request of the petitioner, therefore, cannot be accepted.

4. Let the record of this writ petition be returned to the High Court of Judicature at Allahabad.

Subhash
21/9/88
MEMBER(J)

Dated: 20.9.1988
kkb

2/9/88
MEMBER(A)