

Central Administrative Tribunal, Allahabad.

Registration O.A.No.300 of 1987

Ashok Kumar Applicant

Vs.

Union of India and
others ... Respondents.

CONNECTED WITH

Registration O.A.Nos. 301 to 309 of 1987.

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

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

These are 10 connected petitions under Section 19 of the Administrative Tribunals Act XIII of 1985 filed by Ashok Kumar, Nathu Ram Dhogar, A.A.Khan, Jeet Singh, K.N.Sinha, Patraj, Ram Tirth Katiyar, D.N.Paul, Dhrub Narain Tandon, and B.N. Sengupta respectively. All the applicants were in the service of the railway and on their participation in a strike on the call given by their Association, they were dismissed from service without any formal inquiry under Railway Servants (Discipline and Appeal)Rules, 1968. The departmental appeals filed by them were also dismissed, whereupon they filed writ petitions challenging their dismissal, which were disposed of in the bunch of writ petitions by the Hon'ble Supreme Court in Union of India Vs. Tulsi Ram Patel (A.I.R.1985 SC-1416). The applicants thereafter filed the appeals again against their dismissal allegedly in accordance with the direction of the Hon'ble Supreme Court but as the same were not

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disposed of, they filed these petitions for a direction that their appeals be disposed of by the respondents within 3 months. The applicants were represented by a common coun-sel Sri G.C. Gaharana and he requested us to dispose of these cases finally at admission stage, by issuing necessary direction to the respondents.

2. On the last date, when these petitions came up for admission before us, we were of the view that in case of Tulsi Ram Patel (Supra), the Hon'ble Supreme Court did not issue any direction permitting the dismissed employees to prefer second appeals as in para 176 of its judgment at page 1493 it was stated that the appellate authority under the Central Industrial Security Force Rules shall dispose of such appeals of the members of the Central Industrial Security Force expeditiously as were still pending. In the case of other Government servants, who had not filed any appeal, they were given time till Sept. 30, 1985 to file the departmental appeal and the concerned appellate authorities were directed to condone the delay in filing the appeals and hear the same on merits. There was neither any direction for rehearing the appeals already heard earlier nor to file second appeals by those employees whose appeals had already been dismissed before the said writ petitions were disposed of. The learned counsel for the applicants was accordingly given time to convince us as to how these petitions are covered under the said case.

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3. Sri G.C.Gaharana produced before us a copy of order dated 3.3.1987 of this Bench in O.A.No. 157 of 1987 Ram Bilas Vs. Union of India. One of us was a member of the said Bench and after considering the fact that second appeal was not covered under the direction of the Hon'ble Supreme Court, we had simply ordered that the petition be disposed of in accordance with law within a period of 4 months. The words 'in accordance with law' were purposely used by way of safe-guard to indicate that in case the appeal was not to be disposed of on merits either on account of the dismissal of the first appeal or due to any other intervening factor, the respondents could pass suitable orders therein according to law. So, the decision of this Bench in the said case does not help the applicants at all.

4. The applicants have filed copy of an order dated 30.12.1986 of the Hon'ble Supreme Court in T.C. Nos. 69, 70, 40 and 41 of 1982 as Annexure 2 to these petitions. This order shows that the petitioners governed by the decision of the Hon'ble Supreme Court in the case of Satya Vir Singh Vs. Union of India (1985 (4) SCC-252) had complained to it that the directions given in that case were not complied with by the appellate authority and the Hon'ble Supreme Court had directed the appellate authority to re-disposed of the appeals in accordance with law keeping the directions of the Court given in the case of Satya Vir Singh(Supra) in view within a period of 4 months.

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Placing reliance on this order, it has been contended by Sri Gaharana that the Hon'ble Supreme Court and the other Benches of the Central Administrative Tribunal are entertaining similar petitions for the disposal of the second appeals and are issuing necessary directions and this Bench should also follow the suite.

5. We have carefully considered the contentions raised before us but find ourselves unable to agree with the same. The order dated 3.12.1986 of the Hon'ble Supreme Court, annexure 2, is not based on the case of Tulsi Ram Patel(Supra) but is based on another case Satya Vir Singh (Supra). It appears from the said order that the Hon'ble Supreme Court had directed the redisposal of certain appeals, which is not the prayer before us. In case the Hon'ble Supreme Court meant to direct the respondents to reconsider all those appeals of the dismissed employees, which were dismissed before the decision in the case of Satya Vir Singh(Supra) and the applicants would have made a similar prayer to us, it could be possible for us to issue the necessary direction. As the first appeals preferred by the applicants in these petitions were already dismissed by the competent appellate authority before the decision in the case of Tulsi Ram Patel(Supra) and the Hon. Supreme Court did not authorise such dismissed employees to prefer second appeals, we will not be

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acting according to law if we concede to the request made by the applicants before us for the disposal of their second appeals. They have specifically prayed that the respondents be directed to dispose of their pending appeals, which in our view is not permissible.

6. The applicants have, therefore, no *prima-facie* case either for admission or for issuing any direction to the respondents.

7. All these applications are accordingly summarily rejected.

Member (A)
Member (A)

Member (J)
Member (J)

Dated 6.5.1987
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