

Central Administrative Tribunal, Allahabad.

A2/A
3

Registration O.A.No.1410 of 1988

Kamlesh Kumar Srivastava ... Applicant

Vs.

Union of India and others ... Respondents

Hon.G.S.Sharma, JM
Hon.K.J.Raman, AM

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

In this petition u/s.19 of the Administrative Tribunals Act XIII of 1985, the sole relief claimed by the applicant is that the respondents be directed to decide his representation dated 23.2.1988. His case is that the applicant was formerly working as a Khalasi and was selected as Stenographer in a departmental test on which post he worked upto 16.4.1979. The applicant was discharged as Stenographer w.e.f.16.4.1979. He challenged the order of his discharge by filing a civil suit but the same was dismissed. The appeal preferred by the applicant was also dismissed and he thereafter filed the second appeal no.3077 of 1984 which was dismissed on 14.9.87 on his application for its withdrawal.

2. The applicant has filed the copy of an order dated 30.9.1980, annexure 8 of D.P.O.Allahabad advising him to withdraw his Court case unconditionally whereupon he could be considered for reappointment as a substitute Khalasi. The allegation of the applicant is that he had withdrawn his second appeal on his assurance but despite withdrawal of the appeal when his case was not considered for reappointment, he made the representation on 23.2.1988 but the same has not been disposed of. He has accordingly prayed for its disposal.

AB
12 (4)

3. The learned counsel for the applicant was heard on the question of admission of this petition and we are of the view that this petition is ~~misuse~~^{abuse} of the process of the Court. The applicant having lost his first battle upto the second appeal now wants to revive the same by obtaining an order on his representation through this Tribunal and to approach it again on its basis for suitable relief. In our opinion, the jurisdiction of the Tribunal u/s.19 of the A.T.Act cannot be invoked ~~in~~ⁱⁿ such matters. The assurance alleged to have been given to the applicant was on 23.9.1980 and the appeal was got dismissed by him after a long period of 7 years thereafter on 14.9.1987 and it can hardly be believed that the applicant would have got his appeal withdrawn under that assurance. The copy of the application withdrawing the appeal has not been placed on record to support the contention of the applicant. The oral assurance alleged to have been made to the applicant thereafter by some other officer can also not be believed. In any case, the applicant was not assured of reappointment under the letter dated 23.9.1980 and only his case was to be considered for reappointment as substitute Khalasi. In case the appeal was withdrawn by the applicant under this assurance, the respondents are supposed to have reconsidered his case and no direction of the Tribunal is needed for honouring an undertaking or assurance given out of Court.

~

.3.

AP
B
15

In case the applicant feels that he was duped by some officer of the Railway administration in getting his second appeal dismissed, he may get his appeal restored, if permissible, under the law, but the representation sought to be disposed of by the applicant in respect of a 10 year old matter cannot be entertained by us in this manner.

4. We do not find it to be a fit case for adjudication and the petition is accordingly dismissed in limine.

Sharma

MEMABER (A)

MEM BER (J)

Dated: 31.1.1989
kkb