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CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD

O.A. No. 546/1988

Pyare Lal

Applicant

versus

Union of India

Respondents.

Hon. Mr. Justice K. Nath, V.C.  
Hon. Mr. K. Obayya, A.M.

(Hon. Mr. Justice K. Nath, V.C.)

This application under section 19 of the Administrative Tribunals Act is for quashing the order dated 18.3.88 (Annexure 1) by which the applicant was disengaged from employment with effect from 12.2.88.

2. The short case of the applicant is that the very basis of the order contained in Annexure 1 is erroneous. We have heard Shri Rakesh Verma for applicant and Shri V.K. Goel for the respondents and have gone through the papers before us. The impugned order mentions that information received from the Asstt. Engineer letter dated 8.2.88<sup>was</sup> that this Tribunal had dismissed the applicant's earlier application dated 13.11.87, hence he was being disengaged with effect from 12.2.88. The decision of this Tribunal is contained in Annexure 2. It was rendered on 18.12.87 in O.A. No. 1084/1987. The judgment shows that the earlier application had been filed for quashing a notice by the department to ~~the~~<sup>in</sup> prove the correctness of his service card which was alleged to be forged. The Tribunal observed that it was

2



only a show cause notice which was to be followed by a hearing and the ultimate orders were to be passed after hearing the applicant. With that observation, the petition was dismissed and it was said that if the applicant had <sup>not</sup> made a representation till then, he could do so within 15 days from the judgment. There can be no manner of doubt that the impugned order Annexure 1 suffers from a total misappreciation of the Tribunal's judgment Annexure 3. After the judgment had been brought to the notice of the authorities, it was expected of them to await of the applicant's representations and after receipt of representation to hold a proper enquiry in the matter of the service card being forged and then to pass final orders in the matter of the applicant's engagement or otherwise.

3. Annexure-4 is the copy of representation dated 22.12.87 addressed to the P.W.I. (who passed the impugned order Annexure-1). It was made within the time stipulated in the judgment Annexure-3. It was necessary, therefore, for the respondents to hold a proper enquiry in accordance with law on the receipt of representation Annexure-4. The impugned order, therefore, cannot be sustained.

4. The learned counsel for the applicant, however, says that the applicant may be directed to be reinstated and back wages may be paid. We think that                      in consequence of quashing of the impugned order, the question of payment of wages may be left open to be determined by the competent authority as it may involve several questions of fact<sup>s</sup> which we are not in a position

24

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to decide. It is not quite understood how the impugned order of 18.3.88 could discharge the applicant from employment with effect from a back date i.e. 12.2.88. We may not say anything more of this regard; suffice it to say that we quash this order.

5. The petition is allowed and the impugned order dated 18.3.88 (Annexure 1) is quashed and the direction contained therein of disengaging the applicant from 12.2.88 is set aside. The applicant shall be reinstated forthwith. It shall be open to the respondents to hold a proper enquiry in consequence of the applicant's representation Annexure 4 dated 22.12.87 and pass appropriate orders in accordance with law and also decide the question of payment of applicant's wages from 12.2.88. We further direct that the applicant shall be paid his wages from the date he reports for duty till the period which may ultimately flow from the final orders which maybe passed by the competent authority.

Adm. Member.

Vice Chairman.

Shakeel/

Allahabad Dt. 20th December, 1990.