

CENTRAL ADMINISTRATIVE TRIBUNAL

ALLAHABAD BENCH

ALLAHABAD.

Allahabad this the 24th day of April 1997.

CORAM : Hon'ble Dr. R.K. Saxena, Member-J

Hon'ble Mr. D.S. Baweja, Member-A

ORIGINAL APPLICATION NO. 1544 OF 1993.

A.N. Mazoomdar

..... Applicant.

(By Counsel Shri Satish Dwivedi)

Versus

Divisional Railway Manager,

Northern Railways, Allahabad.

..... Respondents.

(By Counsel Shri A.K. Shukla)

ORDER

By Hon'ble Mr. D.S. Baweja, A.M.

1. This application has been filed under Section 19 of the Administrative Tribunal Act 1985 with a prayer to direct the respondents to implement the order dated 6.3.1990 passed in T.A. no. 950/86
"A.N. Mazoomdar Versus Union of India & others.

2. The applicant had filed a Civil Suit before the court of Munsif which was subsequently transferred to the Tribunal and registered as T.A. no. 951/86. The same was decided by this Bench of the Tribunal on 6.3.1990.

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3. The applicant had filed a Contempt Application no. 1333/92 in T.A. no. 951/86 and the same was dismissed on 2.11.1992 being barred by limitation. The applicant thereafter filed a Misc. Application no. 2245/94 Under Rule 24 of Central Administrative Tribunal (Procedure) Rules, 1987, during the pendency of this Original Application. This application was also dismissed as being misconceived as per order dated 19.9.1994.

4. The applicant has filed the present Original Application (after the Contempt Application was dismissed in 1992) on 6.10.1993 with the pleading that inspite of the repeated representations, the judgment dated 6.3.1990 has not been implemented and action of the respondents in non implementing the judgment is arbitrary, discriminatory and malafide in law.

5. The respondents have filed a written statement submitting that the directions ^{aimed} contained in the judgment dated 6.3.1990 have been implemented by allowing the applicant to continue as E.T.L in the scale Rs1400-2300/- and no junior to him has been promoted after 2.11.1992. Respondents also submit that the applicant had filed a Contempt Application which had already been dismissed. In view of these facts, the respondents contend that the Original Application has no merit, is also not maintainable and the same deserves to be dismissed.

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6. The applicant has filed the rejoinder affidavit. While controve^rting the submissions of the respondents, it is stated that the respondents have not passed any written order in compliance with direction contained in the order dated 6.3.1990.

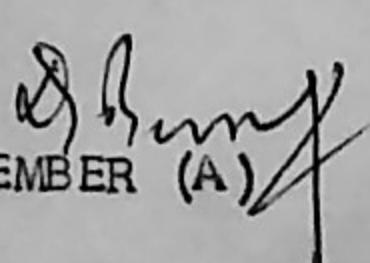
7. We have heard Shri Satish Dwivedi learned counsel for the applicant and Shri A.K. Shukla counsel for the respondents. We have also carefully gone through the material brought on the record.

8. From the facts of the case as brought above, the applicant had filed the Contempt Application alleging disobedience of the order dated 6.3.1990. This Contempt Application was dismissed as being barred by limitation as per order dated 2.11.1992. Thereafter, the applicant filed the present Original Application with a prayer to direct the respondents to implement the judgment dt. 6.3.1990. Without waiting for the disposal of this Original Application, the applicant moved a Misc. Application no. 2245/94 Under Rule 24 of C.A.T ^(Procedure) Rules, 1989. This Misc. Application was dismissed as being misconceived. The fact has been disclosed subsequently by filing Supplementary Affidavit in the Original Application. On the other hand, the respondents in the written reply have stated that the order in the judgment dated 6.3.1990 has already been implemented and the applicant is continuing on the present post without undergoing any selection. The applicant in the rejoinder reply has not specifically contradicted this position but ^{he} only has everred that no written order has been passed by the respondents.

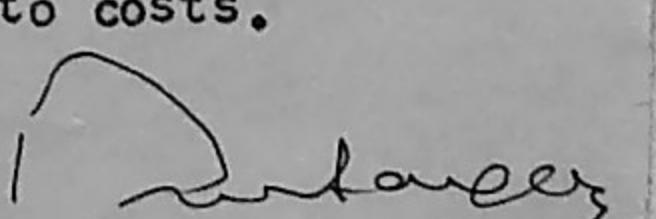
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9. With the above fact situation, it is to be seen whether the present application is maintainable. The applicant has availed the opportunity of filing the Contempt Application which has been dismissed. The applicant has also availed the opportunity of seeking direction under Rule 24 which also has been dismissed. The present Original Application has been filed Under Section 19 of the Administrative Tribunal Act, 1985. The Application Under Section 19 can be filed seeking relief for a cause of action ~~arise~~ by which the applicant is aggrieved. In the present case, there is no cause of action. The only prayer is for issuing direction to implement the judgment dt. 6.3.1990. As such the subject of the present matter does not involve any adjudication to be made. In view of these facts, the present Original Application filed under Section 19 of the Administrative Tribunal act, 1985, is misconceived and is not maintainable.

10. In view of the above consideration, the Original Application is not maintainable and the same is dismissed. No order as to costs.


MEMBER (A)

am/


MEMBER (J)