

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

ALLAHABAD BENCH, ALLAHABAD

O.A. No: 1776/94  
T.A. No:

DATE OF DECISION: 15-12-94

----- Kashi Ram ----- PETITIONER

----- Sri C.C. Bhattacharya ----- ADVOCATE FOR THE  
PETITIONER

V E R S U S

----- U.O. I. Others ----- RESPONDENTS

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----- ADVOCATE FOR THE  
RESPONDENTS

C O R A M

The Hon'ble Mr. Justice B.C. Saxena V.C.

The Hon'ble Mr. K. Muthukrishnan A.M.

1. Whether Reporters of local papers may be allowed to see the judgement?
2. To be referred to the Reporter or not?
3. Whether their Lordships wish to see the fair copy of the Judgement?
4. Whether to be circulated to all other Bench?

SIGNATURE

MANISH/

CENTRAL ADMINISTRATIVE TRIBUNAL

ALLAHABAD BENCH, ALLAHABAD.

Allahabad this the day of 15-12- 1994.

ORIGINAL APPLICATION NO. 1776 OF 1994.

Kashi Ram S/o Sri Tara Dutt,  
R/o Village Hoshiari Devi Mandir,  
Pratit Nagar, Post Office Raiwala, Eastern Doon,  
District- Dehradun.

..... Applicant.

By Advocate Sri G.C. Bhattacharya.

Versus

1. Union of India ~~tho~~ugh The Secretary,  
Ministry of Defence,  
New Delhi.
2. Officer Commanding,  
Station Workshop,  
Electrical and Mechanical Engineering, Roorkee,  
District-Saharanpur.
3. The Director of Electrical and Mechanical Engineering,  
Army Headquarter,  
New Delhi.
4. Major General,  
Electrical and Mechanical Engineering,  
Central Command Head Quarter,  
Lucknow.
5. Major General, K.J. Joshi,  
M.G. Electrical and Mechanical Engineers,  
Lucknow.

By Advocate .....

..... Respondents.

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CORAM:- Hon'ble Mr. Justice B.C. Saksena, V.C.

Hon'ble Mr. K. Muthukumar, A.M.

O R D E R

By Hon'ble Mr. K. Muthukumar, MEMBER (A)

1. Heard the counsel for the applicant on admission stage.
2. The case of the applicant is that by an order dated 31st October, 1975, of the respondent no. 2, the applicant was dismissed from service w.e.f. 31st October 1975 and his representation / appeal against the order dt. 31st October 1975 was also rejected by the Appellate Authority in an arbitrary and illegal manner. By the order dt. 13.11.1992 in O.A. No. 70 of 1986, this Tribunal had directed as follows :-

" Accordingly, the application is allowed and the competent authority is directed to hear and decide the said representation as an appeal after giving personal hearing to the applicant and taking into consideration the pleas raised by him. In case, the appellate authority comes to the conclusion that the appeal should be allowed and the applicant should be reinstated in service, the same may be granted. In case, it comes to the conclusion that no principle of natural justice is violated and the order was legal and correct, this appeal which has been filed against the judgement and decree, passed by the learned Munsif shall be deemed to have been decided. No order as to costs. "

2. We find from Annexure-4 to Compilation no. I, the Appellate Authority, in compliance of the above direction of this Tribunal decided on 13th November 1992, had given notice to the applicant to present his case on 5th November 1993 to the Appellate Authority namely the Major General E.M.E Head Quarter, Central Command, Lucknow and that he was given personal hearing by the

Appellate Authority in presence of D.C. Station Workshop E.M.E and officiating Assistant Director, E.M.E of Central Command, Lucknow. During the hearing, the applicant was called upon to supply any information or document in connection with the case on which he had submitted an application for perusal of the Appellate Authority. The applicant had stated during the said hearing that he he had handed over some medical document on 11th December 1991 to the then D.C Station Workshop in support of his request for leave on the ground of his wife's illness and pleaded that the said medical documents which he had handed over, had not been taken into consideration before the order of dismissal was issued. In the said hearing, the applicant was also stated to have informed the Appellate Authority that he would again search the document available with him to see whether he could produce the medical documents. He was also grant<sup>ed</sup> thirty days time for the above purposes. The applicant had also submitted to the Appellate Authority that as a period of the documents was very old, it would be difficult for him to produce the document and the Doctor who issued these documents, was also not alive and requested the Appellate Authority to take the decision sympathetically, On the basis of the available documents only. The Appellate Authority had, therefore, <sup>to</sup> consider<sup>ed</sup> the facts and circumstances of the case in the documents available in this case and also the submission made by the applicant during the hearing and concluded that the applicant was given an opportunity to put across the facts and defend his case and all procedures relating to the dismissal of service were followed

as per the provisions the CCS (CCA) Rules, 1965, and there had been no denial of the natural justice and, therefore, rejected his appeal against the order of dismissal. This Appellate Order was passed on 5th November 1993 against which this present application has been filed with a prayer to this Tribunal to set aside the above order.

3. We have gone through the grounds on which he has sought the relief, namely setting aside the Appellate Order and also the judgment and decree passed by the Munsif on 24th March 1983 and also the dismissal order passed against the applicant, dated 31st October, 1975, with all consequential reliefs.

4. The counsel for the applicant contends that one of the grounds advanced by the applicant is that the Appellate Authority had not considered the contention of the applicant, in the case placed before this Tribunal in O. A. No. 70 of 1986 and, therefore, the appellate order has to be struck down as illegal on this ground. He has also challenged the Disciplinary Proceedings.

5. We find that his original application against the dismissal order and the Appellate Order were already considered by this Tribunal and was disposed of in its order dated 10th November, 1992, with a direction to that Appellate Authority who has complied with the direction and as is evident from the Appellate Order issued after such compliance. It is seen that there are no grounds for further

interference by this Tribunal, on the orders passed passed by the Disciplinary Authority and the Appellate Authority and the Disciplinary Proceedings are not vitiated by denial any opportunity to the applicant to defend himself or on grounds of denial of natural justice. Beside, this Tribunal cannot sit in judgment as a Court of Appeal in the Disciplinary Proceedings and it is well settled in law that " function of the Tribunal is one of judicial review, which is not an appeal from a decision, and <sup>it</sup> cannot look into the truth or correctness of the findings recorded by the Disciplinary Authority or Appellate Authority", as decided, in Upendra Singh Versus U.O.I J.T. 1994(1) SC 65~~8~~.

6. In the light of the above discussions, we find that there is no merit in the application and the application is, accordingly, dismissed at the admission stage. No order as to costs.

  
MEMBER (A)

  
VICE-CHAIRMAN

ALLAHABAD: DATED: 15.12.94

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