

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH
ALLAHABAD

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M.A. No. 2273 of 1997 (In O.A.No. 803/94)

Date of decision

9th April '99

Chhedi Lal, S/o.Late Sukhdeo

Applicant(s)

C/A Sri Bhoopendra Nath Singh

COUNSEL for the
Applicant(s)

Versus

Union of India & others.

Respondent(s)

Sri P.Mathur, Advocate.

Counsel for the
Respondent(s)

C O R A M

Hon'ble Mr. S.L.Jain, /Member(J)

Hon'ble Mr. G.Ramakrishnan Member (A)

1. Whether Reporters of local papers may be allowed to see the judgment? *yes*
2. To be referred to the Reporters or not ? *yes*
3. whether their Lordship wish to see the fair copy of the judgment ? *No.*
4. Whether to be circulated to all Benches ? *AD*

S.L.Jain
(SIGNATURE)

MANISH/

(Reserved)

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH, ALLAHABAD

MISCELLANEOUS APPLICATION NO. 2273 OF 1997
(In Original Application No.803 of 94)

Allahabad, this the 9 th day of April, 1999.

CORAM : Hon'ble Mr.S.L.Jain, Member(J)
Hon'ble Mr. G.Ramakrishnan, Member(A)

Chhedi Lal, S/o. Late Sukhdeo, R/o.151/B Rly.Colony,
Behind Railway Hospital, Etawah.

.....Applicant

(By Sri Bhoopendra Nath Singh, Advocate)

Versus

1. Union of India through Secretary,
Ministry of Railway, Government of India,
New Delhi.
2. Divisional Rail Manager, Northern Railway,
Allahabad Division, Allahabad.
3. Senior Divisional Electrical Engineer,
Northern Railway, Allahabad.

.....Respondents

(By Sri P.Mathur, Advocate)

O R D E R (Reserved)

(By Hon'ble Mr.S.L.Jain, Member(J))

By this order Civil Misc.Application No.2273 of
1997 under rule 24 of the Central Administrative Tribunal
(Procedure) Rules, 1987 is decided which is being filed
by the applicant of Original Application No.803 of 1994.

2. Applicant Chhedi Lal filed O.A.No. 803 of 1994
which was decided on 13-5-1997 and the following order
was passed :-

"On the consideration of these points, we
come to the conclusion that the O.A. filed

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by the applicant deserves acceptance. It is, therefore allowed and the order of punishment recorded by the disciplinary authority and confirmed by the appellate authority, is quashed. No order as to cost."

3- The applicant has claimed in the O.A. the reliefs as mentioned in para-8 of the said O.A. and the relief mentioned in para-8 (i) is allowed, but relief which is mentioned in para-8 (ii) no order has been passed in the same O.A. The said relief is mentioned as under :-

"8.(ii) - direct the respondents to pay full salary and other benefit from the date of suspension and difference of salary if any deducted in pursuance of ~~salary~~ the impugned orders issued by respondent No.2 and 3."

By perusal of the judgement we find that neither the said relief was allowed nor the said relief ^{was} disallowed and even the said relief was not considered at all.

4. The learned counsel for the applicant relied on (1991) 17 Administrative Tribunal Cases 610 Dharam Pal Sharma Vs. Union of India and others decided by Central Administrative Tribunal, New Delhi and argued that plea to the effect that after delivering the judgement the Tribunal became functuous officio deserves to be rejected. In the said judgement rule 8(iii) and 24 of Central Administrative Tribunal (Procedure) Rules 1987 alongwith Section 17 and 27 was considered.

5. He further relied on 1994 (2) All India Services Law Journal 229 Delhi Veterinary Association, New Delhi Vs. M.S.Gill, Secretary, Ministry of Agriculture & another and argued that rule 24 clearly empowers the Tribunal to

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pass such orders and issue such directions as it needs fit to give effect to its order or to prevent abuse of its process or to ensure the justice. The contents of para 24 undoubtedly fall under the canopy of the rule making power conferred under section-1 of Section 35 of the Act. On the phase of it they carried out the provisions of the Act. They supplement the provision of the Act and do not supplant them. We may also revert to the provisions as contained in Article 323 (A) 2 (g) obviously the contents of rule 24 are conducive to the effective functioning of and the enforcement of the orders of the Tribunal. We, therefore come to the conclusion that rule 24 clothes this Tribunal with sufficient power-grant to extention of time. It has been further^{held} in the said authority that when an application under Section 19 of the Act is decided on merits, the rights and liabilities of the parties merge in the order of the Tribunal. The Tribunal's freedom to act further the ends of justice which surely not stand curtailed, it is not stopped from doing so. In an application seeking extention of time in a matter finally disposed off by the Tribunal, the idea of getting the matter reopened or the order reviewed is foreign to the intend of the maker of such an application. It is implicity in such an application that the order is intact so far the merits of the case is concerned. The question of specifying time within which an order has to be carried out will arise only after a decision has been given on the merit of the case, such a direction is ^{independent} ~~separate~~ of the decision given on the merit. They are two distinct matters.

6. We agree to the preposition of the law laid down in case of Dharam Pal Sharma and Delhi Veterinary Association New Delhi referred above. In the present case what the applicant wants is not an extension of time but a direction regarding the matter for which relief is sought in para 8(i)

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of the O.A. It would mean to decide the said matter which amounts to review of the judgement passed earlier which is foreign under rule 24 of the Central Administrative Tribunal (Procedure) Rules, 1987.

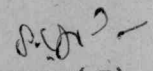
7. The learned counsel for the applicant relied on 1969 SLLJ 662 Tulsipur Sugar Co. Ltd. Vs. State of Uttar Pradesh and others which is a case under U.P. Industrial Disputes Act Section 4 (k), 6, 6A and 6D of the said Act and it has been held that powers under Section 6 (vi) could be invoked even after the award made by it has been published and has become enforceable. No time limit expressed or implied found in the provisions of the Act for exercise of such correctional jurisdiction, proviso section 6 D, held cannot be used as laying down a time limit for correctional jurisdiction under section 6 (vi). The facts of the said case was that Labour Court omitted to give direction in the award in regard to the date from which the fitment of the two workmen was to take effect but directing that the concerned employees should be fitted in the new wages scale as per the Central Sugar Board. We agree to the preposition that correctional jurisdiction rests with the Tribunal, but it is not a case of correctional jurisdiction but a case of adjudicating for a relief which was omitted in the earlier judgement.

8. The judgement in O.A.No.803/94 was passed on 13-5-97. Application under rule 24 of the Central Administrative Tribunal (Procedure) Rule, 1987 was filed on 1-7-97. Had the applicant moved this Tribunal for review of the said judgement the matter must have been otherwise. The relief which is granted to the applicant is that punishment order recorded by the Disciplinary Authority and confirmed

by the Appellate Authority is quashed. In such circumstances the question of payment of salary for the period under suspension arises which is left by the Tribunal to be decided by the Departmental Authority. We may observe that the Railway Servants (Discipline & Appeal) Rules 1968 Part-II, Rule 4 and 5 deals with such situation and the authorities have to decide the case of the applicant keeping in view of the said provisions, orders passed from time to time by the Railway Board and the Government in this respect.

9. In the result application deserves to be dismissed and is dismissed accordingly.


MEMBER(A)


MEMBER(J)

/satya/