

Reserved

CENTRAL ADMINISTRATIVE TRIBUNAL ALLAHABAD BENCH
ALLAHABAD.

Allahabad this the 4th day of July 1997.

Original Application no. 648 of 1995

Hon'ble Mr. T.L. Verma, Judicial Member

Hon'ble Mr. S. Dayal, Administrative Member

R.D. Agarwal, S/o Late Shri P.D. Agarwal, R/o 171/5
Civil Lines, Kamla Colony, Bareilly, U.P.

... Applicant

C/A In person[®]

Versus

1. Union of India through the General Manager, Northern Railway Baroda House, New Delhi.
2. Divisional Railway Manager, Northern Railway, Moradabad.
3. Station Superintendent, Northern Railway, Bareilly.

... Respondents.

C/R Shri A.K. Gaur.

ORDER

Hon'ble Mr. S. Dayal, Member-A.

This is an application under Section 19 of the Administrative Tribunals Act, 1985 -

The applicant seeks the following two reliefs through this application:

" 1) That this Hon'ble Tribunal may graciously be pleased to decide the question whether the applicant was or must be held to have been on duty between 20-5-81 and 3-2-88 at Bareilly on merits as directed by the Hon'ble Supreme Court of India on 31-7-92.

2) That this Hon'ble Tribunal may also be pleased to decide under which section or rules of the CAT Act, 1985, and CAT (Proc) 1987, the Tribunal can interfere in the matters of payment of wages Act, 1936, superseding the provisions of P.W. Act, and Land Revenue Act, 1901, in the interest of justice."

The applicant claims in his application that he was posted at Bareilly in the cadre of Reservation Enquiry Clerk till 3-2-88 and was relieved for joining at his place of transfer Bikaner on 3-2-88 on the directions of the Supreme Court of India. He reported for duty at Bikaner on 6-2-88 and was retransferred to Bareilly on 6-2-89. He mentions that he proceeded on 10 days of sanctioned leave from 21-5-81 to 30-5-81. He remained on medical leave from 31-5-81 to 18-7-81. He was declared fit to resume duty on 18-7-81 by Assistant Divisional Medical Officer. The respondents took his fitness certificate on 19-7-81 but he was kept idle without allotment of any work till 3-2-88. Since he was not paid his wages during this period he filed a case before prescribed authority under Payment of Wages Act. It appears that the claim under Payment of Wages Act was transferred to the Central Administrative Tribunal and it was registered as TA no. 32 of 1986 (T). It was sent

back to the prescribed authority to be placed before it on 8-9-87. The applicant alleges that the respondents adopted dilatory tactics and the applicant approached the Supreme Court of India which passed directions on 25-7-89 that the case be decided within two months as far as possible. The prescribed authority passed orders in this case on 19-8-91 in favour of the applicant holding that he was relieved on 3-2-88. The respondents filed applications no 1200 to 1205 of 1991 in the Tribunal. The applications suffered from two defects in the opinion of the applicant - the first was that the City Magistrate, Bareilly, who was also the prescribed authority under Payment of Wages Act was not made a party. The second was that the Tribunal had no jurisdiction to hear appeals on the payment of wages Act. Although it is not mentioned clearly by the applicant, the claim of respondent against the order of the Prescribed Authority appears to have been accepted by the Tribunal by its judgment dated 29-4-94 and the award of the Prescribed Authority in favour of the applicant appears to have been set aside. The applicant filed a review petition against this order which was dismissed. The applicant claims that he took voluntary retirement with effect from 20-5-92.

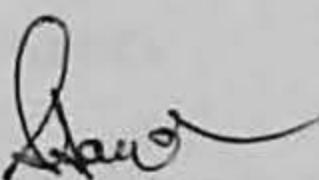
The respondents in their counter reply have raised two points against the applicant which militate against grant of any relief to him. The first is that the applicant has approached the Tribunal with unclear hands by concealing the fact that he was removed from Service with effect from 1-12-92 in departmental enquiry no. VC/Conf./Comml/60-88/RB. The second is that the controversy has already been resolved by the Tribunal in its judgment in OA numbers 1200 to 1203 of 1991 delivered on 29-4-94.

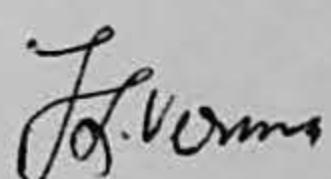
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It is clear from the pleadings that the applicant was chosen to come to the Tribunal again after the award of the competent authority was reversed by the Tribunal by its order in OA 1200 to 1203 of 1991 decided on 29-4-94. The reliefs claimed by the applicant in this application, if allowed, will result in reversal of the orders passed by the Central Administrative Tribunal, Allahabad Bench, in OA 1200 to 1203 of 1991. It will also amount to the Tribunal hearing a challenge to the merits of an order pronounced by itself. We have no such jurisdiction. The proper forum for appeal against the orders of the Tribunal, passed before 18.3.97 was the Supreme Court of India and the present application with the relief claimed is misconceived.

We, therefore, dismiss this application as it does not come within the jurisdiction of this Tribunal.

There shall be no order as to costs.


Member (A)


J.S. Verma
Member (P)

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Sd/-
Member-A

Sd/-
Member-J

/pc/

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