

CENTRAL ADMINISTRATIVE TRIBUNAL

CALCUTTA BENCH

M.A. 94-95/99

(O.A. 912 of 96)

Present : Hon'ble Mr. D. Purkayastha, Judicial Member.

Hon'ble Mr. B.P. Singh, Administrative Member.

JAYANTA KUMAR HAZRA

- V E R S U S -

P O S T

For the applicant : Mr. B. Sinha Roy, counsel.

For the respondents : Mr. B.K. Chatterjee, counsel.

Heard on 10.6.99

Order on 10.6.99.

O R D E R

D. Purkayastha, JM

Heard Id. counsels of both the parties over an application filed by the applicant for ~~restoration~~ of the O.A. 912/96 which was dismissed for default on 18.2.98. The applicant in this connection had filed an M.A. bearing No.81/98 seeking restoration of the O.A. 912/96. But the said M.A. was again dismissed for default on 7.1.99 for non appearance of the applicant.

2. Ld. counsel Mr. Sinha Roy for the applicant is present today and submits that he had an impression that in view of the order dated 12.3.99 passed in CPC 52/97, the M.A. 81/98 has also been released from Court No.II. But when the matter was called for order on 7.1.99, he did not appear and accordingly the M.A. was dismissed for default. We find that on 14.7.98, an order has been passed in CPC bearing No. 52/97 releasing the said case from the Court No.II, ~~for hearing of the matter~~ ~~in the Court No.2~~. Accordingly it was released from the Court No.2 and the parties were directed to mention the case before the Court No.I for appropriate order. Mr. Sinha Roy, Id. counsel submits that under wrong impression he did not appear therefore, the O.A. may be restored in the interest of justice.

3. Mr. Chatterjee, Id. counsel appearing on behalf of the respondent strongly denied the statement made by Id. counsel Mr. Sinha Roy on the ground that the CPC bearing No.52/97 has been dismissed for default of the applicant. Mr. Chatterjee, Id. counsel further submits that the Id. counsel for the applicant did not appear on earlier four consecutive dates after releasing the matter from Court No.II vide order dated 14.7.98.

4. We have considered the submission of the Id. counsels of both the parties. We are satisfied that there is some confusion regarding the order dated 14.7.98. We find that on 14.7.98 the M.A. 81/98 did not appear in the cause list and on 14.7.98 no order has been passed regarding the M.A.81/98 which was pending in the Court No.II. However, in view of the peculiar circumstances, we set aside the dismissal order dated 7.1.99 passed in M.A. 81/98 ~~for restoration of the Date 04/2/98~~
~~as~~ and we also condone the prayer of condonation for filing the M.A. by the applicant. Therefore, M.A. 81/98 is hereby restored after setting aside the order of dismissal dated 7.1.99. Both the M.As above-mentioned are disposed of accordingly. Applicant is directed to pay a cost of Rs.100/- to the respondents forthwith.


Member (A)


Member (J)