

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
JODHPUR BENCH, JODHPUR

ORDER SHEET

APPLICATION No. of
Applicant(s): Respondent(s):
Advocate for
Applicant(s): Respondent (s):

Notes of the registry Orders of the Tribunal

OA No.290/00425/2015 with MA No.290/00215/2015
Date of Order : 06.11.2015

Mr.M.S. Godara, present, for applicant.

The present Original Application No.425/2015 is filed seeking to set aside Annexure-A/1 order dated 02.11.2007 to the extent that it disallows the pay to the applicant. Further, the second direction has been sought to direct the respondents to make the payment of period between August, 2005 to November, 2007.

Earlier, the applicant had filed Original Application No.09/2007 before this Tribunal for seeking direction to release the salary to the applicant from August, 2005 till the date of filing of the OA. This Tribunal vide Annexure-A/2 order dated 07th September, 2007 had partly allowed the OA No.09/2007 directing the respondents to send the applicant for Periodical Medical Examination. The respondents were further directed that after the outcome of such examination, if the applicant is found fit, he should be taken back on duty without delay. Further directions were issued to the respondents to decide about the period of absence of the applicant right from August 2005.

After the disposal of the OA No.09/2007, the applicant had filed Contempt Petition No.13/2008 alleging disobedience of the order passed by this Tribunal in OA No.09/2007. This Tribunal vide order dated 27.03.2009 passed in CP No.13/2008 held that there is due compliance

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For similar reliefs, the applicant had filed Misc.

Application No.157/2009 along with the Misc. Application No.158/2009 for condonation of Delay. Both the applications were dismissed on merits by this Tribunal vide its order dated 03.02.2010.

The orders dated 27.03.2009 passed in CP No.13/2008 and the order dated 03.02.2010 passed in MA No.157/2009 were challenged before the Hon'ble High Court of Judicature for Rajasthan at Jodhpur in DB Civil Writ Petition No.9290/2011. The Hon'ble High Court of Rajasthan vide its order dated 22.12.2011 dismissed the said writ petition. Thereafter, the applicant had filed DB Civil Review Petition No.51/2012 before the Hon'ble High Court challenging the order dated 22.12.2011 passed in DB Civil Writ Petition No.9290/2011. The said Review Petition was also dismissed by the Hon'ble High Court vide its order dated 09.07.2012.

Thus, the order dated 07th September, 2007 of this Tribunal passed in OA No.09/2007 has been affirmed by the Hon'ble High Court by its judgment and as the order passed by this Tribunal has complied with, there is no scope to interfere with the reasoning stated in that order.

The applicant in the instant OA has challenged the order dated 02.11.2007 (Annexure-A/1). Later, the applicant was compulsorily retired from service in the year 2008. The Divisional Personnel Officer, North Western Railway, Bikaner passed the Annexure-A/1 order noting the absentee period of the applicant from July, 2005 to

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07.09.2007 passed in OA No.09/2007. It has been further noted that the Annexure-A/1 order dated 02.11.2007 remain unchallenged for the last 8 years. None prevented the applicant to challenge the said order at the appropriate time by filing an OA instead of agitating the matter in the contempt petition alleging that the respondents have failed to obey the directions issued by this Tribunal in OA No..09/2007. There is ~~an~~ inordinate delay in filing of the present OA and no sustainable reasons are pleaded for explaining the delay. There are no sufficient grounds for condoning the delay of 8 years in filing of the OA. It appears that at this juncture, this OA is filed as an afterthought and therefore we are not accepting the contention of the counsel for the applicant to consider the merits of the case.

Accordingly, the OA and MA are dismissed with no order as to costs.

Meenakshi Hooja
[Meenakshi Hooja]
Administrative Member

Harun-Ul-Rashid
[Justice Harun-Ul-Rashid]
Judicial Member

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