

CENTRAL ADMINISTRATIVE TRIBUNAL

ERNAKULAM BENCH.

Dated Tuesday the twenty ninth day of September

Nineteen hundred and eighty nine.

PRESENT

Hon'ble Shri S.P. Mukerji, Vice Chairman

and

Hon'ble Shri N. Dharmadan, Judicial Member

ORIGINAL APPLICATION No.203/89

A.S. Ananthasubramanian : the applicant

V.

1. The Union of India
represented by the
Secretary, Department
of Forests, Wild Life and
Environment, Lodhi Road,
New Delhi. .
. .
. .
. .
. .
. .
. .
2. The State of Kerala
represented by the
Chief Secretary to Govt.
of Kerala, Secretariat,
Trivandrum. .
. .
. .
. .
. .
. .
. . the respondents

Mr. P.V. Madhavan Nambiar
SCGSC

Counsel for the
: respondents

The applicant appears in person

JUDGMENT

Shri N. Dharmadan, Judicial Member.

The petitioner is a retired Conservator of
case
Forests. This is continuation of a litigation which
started within a very short period after his appointment
as Probationary Assistant Conservator, Konni, in 1949.
While he was working at Neyyar Forest Sub Division as

Sub Divisional Officer, 'the Velupillai Commission' was appointed by the Government for enquiring into certain irregularities alleged to have been committed in connection with the disposal of forest produce. On the basis of the Commission's report, disciplinary action was initiated against the petitioner and he was removed from service as per GO MS 1259, Agricultural dated 22.11.58.

2. The petitioner challenged this order in O.P. No.209/1959 which was subsequently dismissed. He filed a Writ Appeal 69/61 and Annexure A-1 is the judgment by which the Division Bench quashed the punishment inflicted on the petitioner with the freedom to the Government to take fresh action against the petitioner. After this judgment, Annexure A-3 show cause notice was issued and this was followed by Annexure A-4 order stating that the period during which the petitioner was out of service will be treated as period spent on duty for the specific purpose of leave, increment, pension, gratuity etc. and he will not be entitled to any back arrears and the subsistence allowance for the entire period of his absence from the date of suspension to the date of reinstatement.

3. The petitioner filed O.P. 3116/85 before the High Court challenging Annexure A-4 order. This Original

Petition was dismissed and Annexure A-5 is the judgment. The further representation filed by the petitioner was dismissed and he filed O.P.5291/72 against the said order. That O.P. was also dismissed as per Annexure A-6 order. There-upon he filed Annexure A-7 representation praying that he is entitled to the arrears of pay and allowances due to him during the period when he was out of service till his reinstatement. This was disposed of by Annexure A-8 decision to give Rs.16,831.31 in the light of the second proviso to Rule 56(3) of Part I KSR as subsistence allowance for the period ^{during which} he was kept out of service.

4. Since he was not satisfied with this amount he again filed representation A-9 to the Government. Annexure A-10 representation was also submitted before the Chief Minister. These representations were disposed of as per the impugned order Annexure A-13 by which the Government have decided to reject his claim stating that the High Court in Annexure A-1 Writ Appeal judgment did not quash the whole proceedings and exonerated him from the charges. Only when the entire proceedings taken against an delinquent employee ^{are} declared null and void and quashed in toto by the Court that he can claim all such benefits which would have been accrued to him but


for the proceedings. According to Government in Annexure A-13 such a decision has not^{been} rendered by the Division Bench completely absolving the petitioner of all the charges against him. On the other hand the proceedings initiated against him finally ended in reduction of rank by two places permanently.

5. When this petition came up for admission we directed^{by} the learned counsel for the respondents on the question of admission and accordingly we heard the parties at length. We are not inclined to issue notice on this petition, because according to us this is a continuation of a matter which is already disposed of by the High Court and essentially a question of examination of scope of the judgment Annexure A-1. The petitioner, if so advised, may approach for a clarification from the High Court itself. Moreover the petitioner's grievance is that the subsistance allowance granted to the petitioner in the light of the provisions of the 2nd proviso to Rule 56(3) of Part I KSR is not correct in terms of the judgment of the High Court, Annexure A-1. This is a matter which is to be agitated by the petitioner before the authorities contemplated in the KSR or other forum before which such orders can be successfully challenged. He has also not clearly established before us that the impugned order is not an appealable^{able} order.

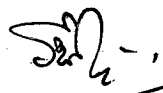
If the petitioner is really aggrieved with the order A-13, he may either file an appeal if there is any, before the concerned appellate authority and challenge the same or approach the High Court invoking the jurisdiction under Article 226 of the Constitution of India. The petitioner has not fully satisfied us that this is a matter which can be entertained by us under Section 19 of the Administrative Tribunals Act. We feel that the cause of action and relief sought in this case being related to his service when he was not a member of an All-India Service, he cannot fall for adjudication by the Tribunal under Section 14 of the Administrative Tribunals Act, 1985.

6. Having regard to the facts and circumstances of the case, we are of the view that, the application does not come within the jurisdiction, powers and authority of the Central Administrative Tribunal as delineated in Section 14 of the Administrative Tribunals Act 1985.

7. Accordingly, we dismiss the petition without prejudice to the petitioner to take, if so advised, such legal action for redressing his grievance as provided under law before the appropriate authority as he may deem fit and proper.


(N. DHARMADAN) 29/9/89
Judicial Member

29.09.1989


29.9.89
(S.P. MUKERJI)
Vice Chairman