

CENTRAL ADMINISTRATIVE TRIBUNAL LUCKNOW BENCH LUCKNOW

Execution Application No. 177 of 2009

In

O.A. No. 590 of 1995

This, the 24th day of November, 2013.

HON'BLE MR. NAVNEET KUMAR MEMBER (J)

HON'BLE MS. JAYATI CHANDRA, MEMBER (A)

Mewa Lal aged about 51 years, son of late Bhagwati Prasad, resident of Parawanarainpur, Post Lalgopalganj, District Pratapgarh and working as Khalasi under Chief Signal Inspector

Applicant

By Advocate Sri R. K. Upadhaya.

Versus

Shri Chahte Ram & Others.

Respondents

By Advocate Sri A. Mishra for Shri M. K. Singh.

ORDER

By Hon'ble Mr. Navneet Kumar, Member (J)

The present Execution Application is preferred by the applicant for non-compliance of the order dated 23.4.2003 passed in O.A. No. 590 of 1995 whereby the Tribunal directed as under:-

"After hearing counsel for the parties, we dispose of this O.A. with the direction to the respondents that the respondents shall hold a supplementary viva voce test within three months from the date of receipt of this order and the applicant shall be spared to appear in the said viva voce test and thereafter the applicant's result may be declared."

2. The applicant preferred the present Execution Application on 23.1.2009 and prayed for issuing direction upon the respondents and ensure the execution of the judgment by passing a suitable orders/direction.

3. Learned counsel appearing on behalf of the respondents filed their objection and through reply, an objection was raised that the present execution application is filed after a period of 6 years and the applicant cannot be allowed to file the execution application after expiry of the stipulated time as such prayed that the execution application be dismissed.

4. Heard the learned counsel for the parties and perused the record.

5. Admittedly, the execution application is preferred for non-compliance of the order dated 23.4.2003 passed in O.A. No. 598/95 wherein, the Tribunal directed the respondents to hold a supplementary viva voce test within three months from the date of receipt of copy of the order and the applicant shall be allowed to appear in the said viva voce test after he being spared and thereafter the result of the applicant may be declared. It is also undisputed to the fact that the present execution application is preferred by the applicant after a lapse of about 6 years. The Hon'ble Apex Court in the case of Hukam Raj Khinvsara Vs. Union of India and Others

reported in (1997) 4 SCC 284, the Hon'ble Apex Court has been pleased to observe that the final order of the Tribunal is executable within one year from the date of its becoming final. It is further observed by the Hon'ble Apex Court is as under:-

"5. The only question is whether the application seeking implementation of the earlier order of the Tribunal was barred by limitation. Section 27 of the Administrative Tribunals Act, 1985 (for short "the Act") envisages thus:

"27. **Execution of orders of a Tribunal**-Subject to the other provisions of this Act and the rules, the order of a Tribunal finally disposing of an application or an appeal shall be final and shall not be called in question in any court (including a High Court) and such order shall be executed in the same manner in which any final order of the nature referred to in clause (a) of sub-section (2) of Section 20 (whether or not such final order had actually been made) in respect of the grievance to which the application relates would have been executed.

6. Relevant part to sub-section (2) of Section 20 of the Act postulates that:

"20(2) For the purposes of sub-section (1), a person shall be deemed to have availed of all the remedies available to him under the relevant service rules as to redressal of grievances,-

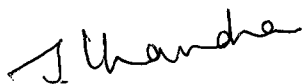
(a) if a final order has been made by Government or other authority or officer or other person competent to pass such order under such rules, rejecting any appeal preferred or representation made by such person in connection with the grievance;"

7. Section 21 prescribes limitation in that behalf, Sub-section (1) (a) of Section 21 postulates that:

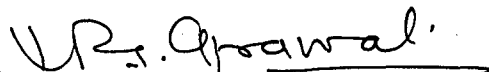
"21.(1) A Tribunal shall not admit an application,-----

(a) in a case where a final order such as is mentioned in clause (a) of sub-section (2) of Section 20 has been made in connection with the grievance unless the application is made, within one year from the date on which such final order has been made."

6. The bare perusal of the observations of the Hon'ble Apex Court as well as the submissions made by the learned counsel for the parties, it is clear that the present execution application is preferred beyond the period. As such, the present execution application is dismissed. No order as to costs.



(Ms. Jayati Chandra)
Member (A)



(Navneet Kumar)
Member (J)