

CENTRAL ADMINISTRATIVE TRIBUNAL LUCKNOW

BENCH LUCKNOW

Original Application No 87/2012

Reserved on 30.3.2015

Pronounced on 24-04-2015

HON'BLE MR. NAVNEET KUMAR MEMBER (J)

Bachhoo Lal aged about 53 years son of Late Ganga Ram R/o A-1165/10, Indira Nagar, Lucknow (U.P.) presently posted on the post of Gangman, Gang No. 5, Motichood, District-Haridwar.

Applicant

By Advocate Sri S. P. Singh and Sri D. P. Gupta

Versus

1. Union of India through General Manager, Northern Railway, Baroda House, New Delhi.
2. Additional Divisional Railway Northern Railway, Moradabad.
3. Senior Divisional Superintending Engineer, Northern Railway, Moradabad.
4. Assistant Engineer, Northern Railway, Roorkee, U.P.

Respondents

By Advocate Sri Narendra Nath

ORDER

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

The present Original Application is preferred by the applicant under Section 19 of the AT Act, 1985 with the following reliefs:

“That this Hon’ble Tribunal may graciously be pleased to direct the respondents to promote the petitioner on the next higher post from gangman and also provide the promotional pay scale and benefits from 1.1.1987 to 2011 and further in the interest of justice.

Any other relief which this Hon’ble Tribunal may deem just and expedient in the circumstances of the case may also kindly be granted.

2. The O.A. was heard by the bench consisting of Hon’ble Ms. Jayati Chandra, Member (A) and Hon’ble Mr. M. Nagarajan, Member (J). There was a difference of opinion between two members as such the matter was referred U/s 26 of AT Act, 1985 to Hon’ble Chairman for reference to third member. Accordingly, the learned counsel for parties were heard.

3. The brief facts of the case are that the applicant was regularized on the post of Gangman vide order dated 1.1.1987. Thereafter, he was removed from service vide order dated 24.4.1988. He filed an O.A. before this Tribunal vide O.A. No. 34/2001 challenging the order of removal dated 24.4.1998. The said O.A. was finally disposed of and the O.A. was allowed vide order dated 19.3.2009 and in pursuance thereof, the applicant was reinstated in service vide order dated 29.5.2009 on the post on which he was working.

4. Now, by means of the present O.A., the applicant has prayed for issuing a direction upon the respondents to promote the applicant on the next higher post of Gangman and also provide the promotional pay scale and other benefits w.e.f. 1.1.1987.

5. The place of posting of the applicant as shown in the O.A. is Gangman, Gang No. 5, Motichood, District-Haridwar.

6. Learned counsel for the applicant argued and submitted that the order passed by the Hon'ble Member (J) on 31.3.2014 is speaking and detailed order and has also indicated that the registry has scrutinized the case of the applicant and has categorically indicated that the said O.A. is maintainable before this Tribunal. Apart from this, it is also argued by the learned counsel for applicant that there is no illegality in the order of one of the Member of the earlier bench and the present O.A. is maintainable before this Tribunal alone. It is also argued by the learned counsel for applicant that after scrutiny made by the registry, the Registry raised no objection, as such the claim of the applicant is maintainable before this Tribunal and the O.A. be heard on merits.

7. Learned counsel for applicant has also relied upon Rule 6(i) (ii) of CAT (Procedure) Rules, 1987 and has indicated that the cause of action, wholly or in part has arisen within the territorial jurisdiction of this Tribunal, as such the present O.A. is maintainable before this Tribunal.

8. In reply to the arguments advanced by the learned counsel for the applicant, respondents filed their counter reply and in the counter reply, the respondents raised preliminary objection indicating therein that as per Rule 6(1) of CAT (Procedure) Rules, 1987, an application shall ordinarily be filed by an applicant with the Registrar of the Bench within whose jurisdiction the applicant is posted for the time being and has indicated that at present the applicant is neither posted within the territorial jurisdiction of this Tribunal nor the cause of action wholly or in part has arisen within the jurisdiction of this Tribunal, as such the present O.A. is not maintainable before this Tribunal on the ground of jurisdiction.

9. Not only this, the learned counsel for the respondents has also submitted that the applicant has not challenged any order passed by any of the respondents and is just claiming promotion to the next higher post from Gangman and also prayed for promotional pay scales and other benefits.

10. Learned counsel for the respondents has indicated that earlier when the applicant was removed from service, he preferred an O.A. before this Tribunal and at that material point of time, the applicant was removed from service and his place of residence was shown within the territorial jurisdiction of Lucknow as such, the O.A. was maintainable and decided by this Tribunal whereas in the present O.A., the address though shown is Indira Nagar, Lucknow but the applicant is presently posted at Haridwar, as such the O.A. is not maintainable before this Tribunal.

11. On behalf of the applicant, Rejoinder Reply is filed and through Rejoinder Reply, mostly the averments made in the O.A. are reiterated and denied the contents of the counter reply.

12. Heard the learned counsel for the parties and perused the records.

13. The applicant was appointed by the respondent No.4 as Casual Labour and thereafter he was regularized to the post of Gangman on 1.1.1987 and while working as Gangman, the respondent No.4 removed the applicant from service vide order dated 24.4.1998. The applicant feeling aggrieved by the order of removal, preferred the appeal and revision and when both appeal and revision were dismissed, he preferred O.A. before this Tribunal vide O.A. No. 34/2001 and the said O.A. was allowed by the Tribunal by means of order dated 19.3.2009 through which the Tribunal quashed the order and directed for reinstatement.

14. Subsequently, the applicant was reinstated in service and after his reinstatement, he submitted number of representations for granting him the benefits as has been granted to the juniours of the applicant. Since the request of the applicant seeking financial upgradation under MACP and other promotional benefits at par with the juniors were not considered by the authorities, the applicant filed the present O.A.

15. It is pertinent to make a mention at this stage that at the time of filing the present O.A., the applicant is posted on the post of Gangman, Gang No. 5, Motichood, District- Haridwar. As per the provision of Section 19 of the AT Act, a person aggrieved by any order pertaining to any matter within the jurisdiction of a Tribunal may make an application.

16. For ready reference ,Section 19 of the AT Act is reproduced below:-

“19. Applications to Tribunals –

(1) Subject to the other provisions of this Act a person aggrieved by any order pertaining to any matter within the jurisdiction of a Tribunal may make an application to the Tribunal for the redressal of his grievance.”



17. Section 6 of CAT (Procedure) Rules, 1987 provides for place of filing application and it is provided that an application shall ordinarily be filed by an applicant with the Registrar of the Bench within whose jurisdiction – (i) the applicant is posted for the time being, or (ii) the cause of action, wholly or in part, has arisen. For ready reference, Section 6 of CAT (Procedure) Rules, 1987 reproduced below:-

“6. Place of filing applications –

(1) An application shall ordinarily be filed by an application with the Registrar of the Bench within whose jurisdiction –

(i) the applicant is posted for the time being, or

(ii) the cause of action, wholly or in part, has arisen: “

18. The bare perusal of the entire O.A., as well as Section 19 of the AT Act and Rule 6 of CAT (Procedure) Rules, 1987 is clear to the extent that place of posting of applicant is shown at Haridwar. The applicant is not aggrieved by any order passed by any of the respondents. He is claiming financial up-gradation under MACP and other promotional benefits, at par with his juniors and also claiming promotion to promote him to the next higher post from Gangman and provide promotional pay scale from 1.1.1987 to 2011. As such, it is clear that the applicant is not aggrieved by any order which is passed by any of the respondents in the O.A. and as per provision of Rule 6(1)(i) of CAT (Procedure) Rules, 1987, applicant is required to submit the O.A. before a registry of bench within whose jurisdiction the applicant is posted for time being.

19. In the instant case, the applicant is posted at Haridwar and application is maintainable before Allahabad Bench of this Tribunal. Accordingly, as per the check list, the application is maintainable before this Tribunal is not sufficient to entertain this O.A. which is without jurisdiction as such, the O.A. is dismissed on the ground of jurisdiction.

20. I agree with the observations of Hon'ble Ms. Jayati Chandra, Member (A) who also observed that Lucknow Bench of the Tribunal has no territorial jurisdiction as per Rule 6(1)(i) of CAT (Procedure) Rules, 1987.

21. Accordingly the reference is decided.

Navneet Kumar
(NAVNEET KUMAR)
MEMBER (J)

HLS/-