

Central Administrative Tribunal, Lucknow Bench, Lucknow
Original Application No.290/2004 C.W. 661/2001
this the 19th day of January, 2005

Uma Kant Bansal
By Advocate: Sri R. C. Singh.

...Applicant

VERSUS
Union of India and others
By Advocate: Sri S.K. Pandey

...Respondents

ORDER (ORAL)

BY HON'BLE SHRI SHANKER RAJU, MEMBER (J)

Applicant in O.A. No. 661/2001 being aggrieved with an order passed on 28.9.2001 imposing upon him a penalty of recovery of Rs. 78,307/- in 53 equal instalments, Tribunal admitted the O.A. by order dated 29.11.2001. Thereafter during the penency, respondents passed an appellate order on 11.9.2003 whereby while setting aside the punishment, denovo proceedings has been ordered.

2. Applicant has assailed in O.A. No. 290/2004 the order passed in pursuance of denovo proceedings imposing upon him the same punishment vide order dated 30.6.2004, Against which no appeal has been preferred. Sri R.C. Singh, counsel for applicant contended that while resorting to Section 19(4) of the AT Act, 1985 that once an O.A. has been admitted by the Tribunal under Sub Section (3) of the AT Act, every proceedings under the relevant service rules as to redressal of the grievance in relation to the subject matter of such application pending immediately before such admission shall abate and save as otherwise directed by the Tribunal, no appeal shall thereafter be entertained under such rules.

3. The aforesaid provisions clearly rules that in an event an O.A. is admitted, any proceedings pending shall abate, this connotes not only any order passed on any appeal, representation available under the rules against the grievance pending before the respondents.

4. Once the application has been admitted in present case, an order passed on 11.9.2003 ramand ~~back~~ the matter for denovo proceedings, cannot be passed without approval of the Tribunal in the saving class. As no direction has been issued to the respondents to pass an order in appeal, the appellate order of 11.9.2003 abates and as a consequence thereof, the proceedings undertaken against the applicant and orders

passed on 30.6.2004 are without any jurisdiction. Learned counsel for respondents contended that in applicant in O.A. 661/2004 has approached this Tribunal after 15 days of preferring the appeal and this has been prevented the respondents from passing final order on the appeal. However, we do not find any satisfactory reply, in the light of Section 19(4) of the AT Act, 1985 as the order passed on 19.4.2000 are also abated, this also abates. Any consequential proceedings taken in pursuance thereof which includes the punishment order. In this view of the matter O.A. No. 290/2004 is allowed. Impugned punishment order is set aside. This leaves the punishment imposed in 2001 and O.A. 661/2004 which is ripe for hearing. This should be listed on 17.2.2005. Copy of the order be placed in each file.

(S.P.Arya)
(S.P.Arya)

Member (A)

HLS/-

S.Raju
(Shanker Raju)
Member (J)