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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH, "GULESTAN" BUILDING NO.6
PREScot ROAD, BOMBAY-1

D R (5)
D D
25/9/91

O.A. No. 768/89

1. Bhimrao Bhaurao Bhalerao
P-23, R-2, N-5, CIDCO,
Gulmohar Colony
Aurangabad
2. Sudam Asaram Hiwarale
Krantinagar
Behind High Court
Aurangabad
3. Jaywant Supdu Shelar
Sanjay Nagar, Zinsi
Aurangabad
4. Babulal Devichand Sathe (Deleted as per
Courts order
dated 6.9.89)
5. Raju Radhakishan Hire
Chawani, Aurangabad
6. Alka Laxman Gaikwad
Millcorner Bhoiwada
Aurangabad
7. Mohammad Sharif Mohammad Nawaj
Zinsi, Aurangabad .. Applicants

V/s.

1. Union of India
through Secretary
Central Excise and Customs
Department; New Delhi
2. The Collector
Central Excise and Custom
Jafargate, Mondha Road,
Aurangabad .. Respondents

CORAM: Hon. Shri Justice U C Srivastava, V.C.
Hon. Shri P S Chaudhuri, Member (A)

APPEARANCE

Mr. D V Gangal
Advocate
for the applicant
Mr. S.R. Atre, (for
Mr. P M Pradhan)
Counsel
for the respondents

ORAL JUDGMENT
(PER: P S CHAUDHURI, MEMBER (A))

DATED: 30-8-1991

Applicants by Mr D V Gangal.

Respondents by Mr. S.R. Atre, for

Mr. P M Pradhan.

Mr. Atre contended that applicants 2 and 7
before us were applicants 3 and 2 respectively in

O.A. No.246/89 decided by this Bench on 7-6-89 when it was rejected summarily and the S.L.P. in respect of which was dismissed by the Supreme Court on 12.2.1990. Mr. Gangal contends that the applicants concerned were not signatories to the said application. As written statements in this respect are not on record, respondents may file an additional written statement by 30.9.1991 with a copy to the applicant's advocate. Rejoinder, if any, within one month thereafter. Call for final hearing during the next circuit sitting in Aurangabad. Parties to be informed of the dates when fixed.

2. After we had dictated the above order in open court, the respondent's file dealing with O.A. No. 246/89 was made available to us by Mr. S.R. Atre, learned counsel for the respondents and we find ourselves in a position to decide this case. We accordingly recall the earlier order and proceed to decide this case.

3. In This application ~~which~~ has come to the Tribunal by way of transfer under section 29 of the Administrative Tribunals Act, 1985 in pursuance of the Aurangabad Bench of the High Court's order dated 20.7.1989 on writ petition No.1483/89 which was filed before it on 16.6.1989. By subsequent order dated 21.11.1989 this writ petition has been newly numbered as O.A. No.768/89 and taken on the file of this Tribunal.

4. When O.A. 768/89 came up for hearing before us Mr. Atre submitted that applicants nos. 2 and 7 are estopped from adjudging this matter as they had already filed OA No.246/89 before this Tribunal which was summarily rejected by order dated 7-6-1989. An S.L.P. was filed in the Supreme Court in the case which was dismissed on 12.2.1990. Mr. Atre concluded by submitting that since the application fails in respect of

two of the applicants, it must necessarily fail in respect of all - *See ATMAKURI GOPAL KRISHNARAO & ORS.*, AIR 1957 AP 88.

5. Mr. Gangal submitted that the applicants in question were not signatories to OA 246/89 and that they were prepared to sign an affidavit to that effect.

6. On going through OA 246/89 we find that applicants therein have signed at two places, viz., on the index sheet and on the verification. Further, in the said application details of regards paid to the said two applicants have been incorporated. We have seen the signatures on the said application as also the signatures of applicants 2 and 7 on the vakalatnama in this application and *prima facie*, it appears to us that the signatures are one and the same. We, thus, have no hesitation in holding that applicants 2 and 7 herein were in fact applicants in OA 246/89. Considering that they are casual labours attempting to seek employment, we leave the matter here and do not proceed any further in respect of the submission made ~~through~~ their counsel to the effect that ~~they~~ were willing to sign affidavits claiming that they were not parties to O.A. No.246/89.

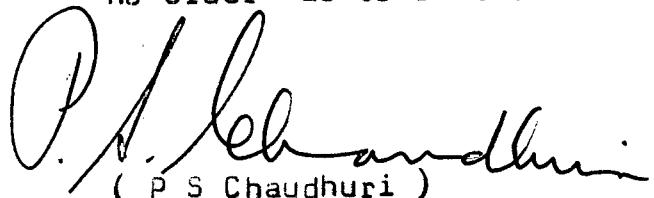
7. In this view of the matter we have no difficulty in holding applicants 2 and 7 are estopped from approaching the Tribunal for the relief prayed for in this case viz., regular employment under the respondents which was the very subject matter of their application in O.A. No.246/89. Since the application fails in respect of these two applicants, it is not necessary for us to go into the question of examining the applicants as the application necessarily fails in respect of all the seven applicants.

8. The application is accordingly dismissed. In the circumstances of the case there would be

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no order as to costs.


(P. S. Chaudhuri)
Member (A)


(U. C. Srivastava)
VICE CHAIRMAN