

CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH

M.P. 774/96 in
Original Application No. 257/96

S.N. Prasad and 8 others

... Applicants.

By Advocate Shri G.K. Masand.

V/s.

Union of India and two others.

... Respondents.

By Advocate Shri V.S. Masurkar.

CORAM: Hon'ble Shri B.S. Hegde, Member (J)

Tribunal's order

Dated: 12.12.96

Heard counsel for the parties.

Applicants have filed M.P. 774/96 praying for revival of the O.A. 257/96 on the file of the Tribunal and the same to be heard and disposed off on merits. The O.A. was disposed of by the Tribunal vide its order dated 18.4.96 at the admission stage itself. After hearing both the counsel the applicants were directed to make their representation to the competent authority i.e. Department of Telecommunication - Respondent No.1 within a period of one month. On receipt of the same, the competent authority may dispose of their representation within a period of three months there-after. "

The learned counsel for the applicant, Shri Masand, in this M.P. has taken a stand that in the O.A. the applicants had sought stepping up of their pay to the level of the pay of their junior Shri P.B. Sakhare as on 1.5.1990 and to pay to them all the arrears arising therefrom together with interest @ 21% p.a. from 1.5.1990 till payment with all consequential benefits.

It is true, that the respondents did not file reply on account of strike. However, on oral submission of the parties the Tribunal has passed the order dated 18.4.96. In accordance with the directions of the Tribunal the applicants have made similar representations to the Secretary, Department of Telecom, Sanchar Bhavan, New Delhi. Though the competent authority considered respective cases and passed appropriate decision in the matter, the contention of the applicant is that the Tribunal has not disposed of the O.A. on merits but the O.A. was disposed of with a direction to the respondents to pass appropriate order on the basis of the representations made by the applicants, which has not been done. Thereby, they perforce to file this M.P. for revival of the O.A., so that they can avoid further expenditure in filing fresh O.As. The said contention of the applicant is not tenable and the same is rejected.

On the other hand, the learned counsel for the respondents Shri Masurkar opposed the maintainence of the M.P. and submitted that in fact on the basis of the representation made by the applicants reply has been sent to the respective applicants. Copy of the same has been produced during the course of hearing. On verification of the same, I find that the representations were disposed of by some other authority which is not according to the directions of the Tribunal. Further, it is submitted that since the O.A. was disposed of by judgement dated 18.4.96 and

the respondents have complied with the order and M.P. filed by the applicants for revival and restoration of O.A. which has already been disposed of by the Tribunal is not maintainable under law because the Tribunal has become 'functus-officio' after passing the final orders and therefore the applicants if aggrieved will have to file the separate original application etc. The respondents further states that the O.A. by the 9 applicants as well as the present application(MP) by 9 applicants is not maintainable in law because this is a matter of stepping up of apy at par with the alleged juniors. The set of facts with regard to the each of the applicant with regard to unit they are working, date of appointment, their number of seniority and their number of seniority in the blue book and their cases considered on different dates by the DPC and therefore neither the joint original Application nor joint Misc. Petition is maintainable in law etc. In the light of the above the learned counsel for the respondents opposed for the revival of the O.A. for the reasons stated above.

During the couse of hearing without going into the contention of the parties and the provisions of law, I was inclinded to agree with the suggessions made by the learned counsel for the applicant. However, after perusal of the pleadings and Rule 24 of the CAT Procedure Rules 1987 which reads as below:


" The Tribunal may make such orders or give such directions as may be necessary or

or expedient to give effect to its orders or to prevent abuse of its process or to secure the ends of justice."

Keeping in view of the aforesaid provisions I am of the view, that in terms of Rule 24 it is not just and proper to revive the O.A. now besides the objections raised by the learned counsel for the respondents that joint application is not maintainable and they cannot file M.P. for revival of the O.A. While disposing of the O.A. the directions was to make representations to the Competent Authority i.e Department of Telecommunication - Respondent No.1 who on receipt of the same shall dispose of the same within a period of three months thereafter. As stated earlier the representations were disposed of by other than the Competent authority. Therefore, in terms of Rule 24 of the Procedure Rules, I hereby direct respondents No.1 to dispose of the pending representation by passing appropriate order within a period of three months from the date of receipt of this order.

In the light of the above, the question of revival of the O.A. at this stage does not arise, in case the applicant is aggrieved by the final order passed by the respondents they are at liberty to aggritate the matter if they so desire. M.P. stands disposed of.

Copy of the order be given to the parties.


(B.S. Hegde)
Member (J)