

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH

Original Application No: 146/99

Date of Decision: 17/3/99

Shri A.K. Mahajan

Applicant.

Shri D.V. Gangal

Advocate for
Applicant.

Versus

Union of India & 3 Ors

Respondent(s)

Shri S.C. Dhawan

Advocate for
Respondent(s)

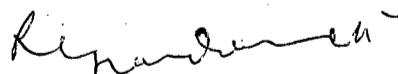
CORAM:

Hon'ble Shri. Justice R.C. Vaidyanatha, Vice Chairman.

Hon'ble Shri. D.S. Baweja, Member(A).

- (1) To be referred to the Reporter or not? *NV*
- (2) Whether it needs to be circulated to other Benches of the Tribunal? *NV*

abp.


(R.G. VAIDYANATHA)
VICE CHAIRMAN

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
GULESTAN BLDG.NO.6, 4TH FLR, PRESCOT RD, FORT,
MUMBAI - 400 001.

ORIGINAL APPLICATION NO:146/99.

DATED THE 17TH DAY OF MARCH, 1999.

CORAM: Hon'ble Shri Justice R.G.Vaidyanatha, Vice Chairman
Hon'ble Shri D.S.Baweja, Member(A).

Shri A.K.Mahajan,
formerly working as
Monthly Rated Casual Labour,
under
Chief Catering Supervisor,
Central Railway,
Bhusawal,
residing at
Plot No.5, Hareshwar Nagar,
Ring Road,
At & Post:Jalgaon,
Dist: Jalgaon.

... Applicant.

By Advocate Shri D.V.Gangal.

v/s.

1. Union of India, through
General Manager,
Central Railway,
Head Quarters Office,
CST Mumbai,
Mumbai - 400 001.
2. Chief Personnel Officer,
Central Railway,
Head Quarters Office,
CST Mumbai,
Mumbai - 400 001.
3. The then Divisional
Commercial Superintendent
and now
Divisional Commercial
Manager,
Central Railway,
Bhusawal.
4. The then Senior Divisional
Commercial Superintendent
and Now
Senior Divisional
Commercial Manager,
Central Railway,
Bhusawal.

... Respondents.

By Advocate Shri S.C.Dhawan.

ORDER

[Per Shri R.G.Vaidyanatha, Vice Chairman]

This is an application filed by the applicant
challenging the order of removal from service. Shri S.C.Dhawan



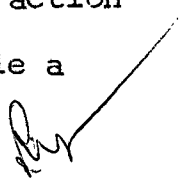
has taken notice on behalf of respondents and orally opposes the admission of application. We have heard Shri D.V.Gangal counsel for applicant and Shri S.C.Dhawan, counsel for respondents.

2. The applicant had earlier filed OA-46/89 challenging the very same order of removal from service on many grounds. It appears that this Tribunal allowed the OA on the ground that the enquiry report had not been furnished to the applicant and remanded the matter to disciplinary authority to furnish a copy of the enquiry report and then proceed according to law by order dated 8/8/91. Being aggrieved by this order, the respondents carried the matter in appeal before the Supreme Court in Civil Appeal No.7022/95 where^{by} order dated 27/7/95, Supreme Court set aside the order of this Tribunal. However, subsequently, one more order has been received from Supreme Court which is in the file of OA-46/89, which we have now secured from the record branch for perusal. In the subsequent order communicated to the Tribunal, the Supreme Court has passed an order stating that OA-46/89 filed by Shri A.K.Mahajan is dismissed.

It is now agreed by the counsel for applicant that he filed a review petition in the Supreme Court and it came to be dismissed.

3. Now, the applicant has filed a fresh OA challenging the very same order of removal from service. When the applicant's previous OA-46/89 has been dismissed by the Supreme Court, the applicant cannot file a fresh OA on the same cause of action namely challenging the order of removal from service which was the subject matter in OA-46/89.

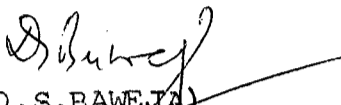
4. Learned counsel for applicant contends that this Tribunal and the Supreme Court in the previous OA had not considered the applicant's case on merits. It may be so. But when once the Supreme Court has directed that OA-46/89 stands dismissed, we cannot consider the same cause of action either on merits or otherwise, the applicant cannot file a




fresh OA on the same cause of action namely challenging order of removal from service. Principles of res judicata are ~~not attracted~~ attracted and the present OA is not maintainable and is liable to be rejected.

5. In the result, OA is rejected at admission stage.

No costs.


(D.S. BAWEJA)
MEMBER (A)


(R.G. VAIDYANATHA)
VICE CHAIRMAN

abp.