

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

NEW DELHI

Review Petition No. 73/90 in

O.A. No. 173/90

199

T.A. No.

DATE OF DECISION 28.2.1991Smt. Asha Ulhas Sardesai

Petitioner

Advocate for the Petitioner(s)

Versus

Shri Prakash Nadkarni & Others

Respondent

Advocate for the Respondent(s)

GORAM.

The Hon'ble Mr. P.K. KARTHA, VICE CHAIRMAN (J)

The Hon'ble Mr. M.Y. PRADKAR, ADMINISTRATIVE MEMBER

1. Whether Reporters of local papers may be allowed to see the Judgement? Yes
2. To be referred to the Reporter or not? No
3. Whether their Lordships wish to see the fair copy of the Judgement? No
4. Whether it needs to be circulated to other Benches of the Tribunal? No

ORDER

(of the Bench delivered by Hon'ble Mr. P.K. Kartha,
Vice Chairman(J))

The petitioner in this review petition is the original plaintiff in Civil Suit No. 23/86, which had been filed in the Court of District Judge on 7.4.1986. The said suit had been transferred to this Tribunal by the Court of District Judge of Margao, Goa. The petitioner preferred first Civil Appeal No. 130/87, which was taken up for hearing by the Bombay High Court, Panaji Bench, Panaji. On 12.8.1987, the High Court passed an order ^{holding} that the Civil Court has jurisdiction to try the case on merits. Therefore, the Additional District Judge was

directed to dispose of the suit on merits.

2. The aforesaid order of the High Court was conveyed to the Additional District Judge at Margao. The Additional District Judge wrote to the Registrar of the Tribunal on 31.10.1989 requesting to return all the papers of Civil Suit No.23/86 which had been transferred by his office to this Tribunal.

3. The Tribunal took up the transferred application No.524/87 for hearing on 6.3.1990. By order dated 6.3.1990, the Tribunal observed that the applicant could not have filed a suit in a Civil Court on her grievance relating to service matter after 1.11.1985. It was further directed that to avoid inconvenience to the plaintiff, the papers transferred to the Tribunal by the Civil Court may be treated as a fresh original application under Section 19 of the Administrative Tribunals Act, 1985. The letter received from the Additional District Judge which had been numbered as Misc. Petition No.386/89 was also disposed of. A copy of the order dated 6.3.1990 was directed to be sent to the Additional District Judge.

4. The petitioner has stated that the Civil Suit originally instituted contains a prayer for damages, which issue needs to be decided only by a Civil Court and not by this Tribunal. The transfer of the suit from the Civil Court to this Tribunal would deprive the petitioner of the relief of damages. This would result

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in grave injustice to her.

5. We have gone through the Civil Suit No.23/86 filed in the Court of District Judge for South Goa. It is seen that the applicant has prayed for damages to the tune of Rs.5,000/- or any other sum as the Court may determine.

6. On reconsideration, we are of the opinion that there is an error apparent on the face of our order dated 6.3.1990 and, therefore, we recall the same. We, therefore, allow the review petition and direct that the records and proceedings of transfer application (OA 173/90) ⁴ No.524/87 be transmitted to the Court of Additional District and Sessions Judge at Margao. The Registry to do the needful in the matter. Let a copy of this order be also sent to both parties.


28-2-91
(M.Y. PRIOLKAR)
MEMBER (A)


(P.K. KARTHA)
VICE CHAIRMAN (J)