

18.6.92

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O.A.No.400/92

Mr.M.S.Ramamurthy, Adv. for the applicant.

Mr.M.I.Sethna, Adv. instructed by Mr. A.I.Bhatkar,
for the respondents.

While arguments were being addressed on the continuance of interim relief, it was noticed, that the applicant had made an application to the Quartermaster General, QMC's Branch, Army Head Quarters, DHQ, PO, New Delhi-110011 on 17.3.1992 for considering his request for transfer from Military form, Pimpri to either Military form, Allahabad or Lucknow as he belongs to Uttar Pradesh. No reply has been received from Quartermaster General till date. But the O.A. is premature in so far as the period of six months has not lapsed from the date of sending of the representation.

Rejoinder has been filed on behalf of the applicant by Mr.Ramamurthy, but due to paucity of time, opportunity to file sur-rejoinder or denying the correctness of the allegation, submission and contention raised in the rejoinder, was not allowed to the respondents, as the rejoinder, was not allowed to the respondents, as the rejoinder, was only served on the respondents today. However, since the applicant's representation to the Quartermaster General is still pending and it would be appropriate for the higher authorities to consider the representation on merits and give a reply to that, it is suggested by Shri M.I.Sethna, Counsel for the respondents, on instruction, that so long as the reply is not received from the Quartermaster General, the applicant will not be served a movement order and he will continue to be in Pune. Interim relief granted earlier is vacated, and O.A. is dismissed as being premature.

(Signature)
(USHA SAVARA) 18.6.92.
MEMBER(A)

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH

(6)

O.A.361/95 with O.A.400/92, 851/92 & 681/94.

Chandras C Panchal ... Applicant.

V/s.

Union of India,
Shreeman Kasz Raju & Ors.
Naval Dockyard,
Sahid Bhagat Singh Rd.,
Near Reserve Bank of India,
Bombay - 400 001.

... Respondents.

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

Hon'ble Shri M.R.Kolhatkar, Member (A).

APPEARANCE:

Applicant in person.

Shri V.S.Masurkar, Counsel
for Respondents.

JUDGEMENT:

LATEL : 29.9.95

X Per Shri B.S.Hegde, Member (J) X

The applicant has filed this OA under
section 19 of Administrative Tribunals Act praying
for the following relief:-

- 1.The applicant be allowed to file the
application condoning the limitation
prescribed under section 21(i) (A) of
Administrative Tribunals Act, 1985.
- 2.The Respondents be directed to pay the
applicant his unpaid due wages with
reinstatement.
- 3.Cost of this Application, etc.

2. We have heard the applicant in person and
Shri V.S.Masurkar, Counsel for Respondents and perused
the records. In this OA, the applicant has not
challenged the vires of the removal order passed on
17/3/93 against which the applicant has preferred
an appeal to the Appellate Authority who have
considered the various grounds but came to the
conclusion that there is no substance in the
appeal and ultimately agreed with the findings of
the Disciplinary Authority and passed an order

rejecting the appeal on 23/11/94. He has filed an application dated 3/7/95 stating that OA.400/92, 851/92, 681/92 and 361/95 be heard together as the issue involved in these cases are one and the same except OA-361/95 which is the present case. The other cases have been disposed of as back as 20/11/92. The prayer and the issue involved in these cases are one and the same. The Tribunal after considering the contention of the applicant have stated that they are not inclined to grant any relief since he has not challenged the vires of the removal order. Therefore the question of raising the same issue by filing another application is not permissible which is clearly barred by principles of res-judi-cata and also by law of limitation.

3. On perusal of the records, we find that the prayer made in this petition is one and the same with that in OA-400/92. Both are similar. Therefore it is not open to the applicant to re-agitate the matter once again and is governed by principle of Res-judi-cata.

4. In the light of the above, and for the reasons stated above, we do not find any merit in the OA, the same is dismissed. No order as to costs.

(M.R. KOLHATKAR)
MEMBER (A)

(B.S. HEGDE)
MEMBER (J)

abp.