

CENTRAL ADMINISTRATIVE TRIBUNAL

MUMBAI BENCH

ORIGINAL APPLICATION NO.: 1097/97.

Date of Decision : 18.12.1997.

Vishwanath Bhaskar Rane

Petitioner.

Shri D. V. Gangal,

Advocate for the
Petitioner.

VERSUS

Union Of India & Others

Respondents.

None

Advocate for the
Respondents.

CORAM :

HON'BLE SHRI JUSTICE R.G. VAIDYANATHA, VICE-CHAIRMAN.

- (1) To be referred to the Reporter or not ? *NO*
- (2) Whether it needs to be circulated to *vv* other Benches of the Tribunal?

R. G. Vaidyanatha
(R. G. VAIDYANATHA)
VICE-CHAIRMAN.

CENTRAL ADMINISTRATIVE TRIBUNAL

MUMBAI BENCH

ORIGINAL APPLICATION NO.: 1097/97.

Dated this Thursday, the 18th day of December, 1997.

CORAM : HON'BLE SHRI JUSTICE R.G. VAIDYANATHA,
VICE-CHAIRMAN.

Shri Vishwanath Bhaskar Rane,
Khadka Road,
Near Siddheshwar Mandir,
Bhusawal.

Applicant

(By Advocate Shri D. V. Gangal)

VERSUS

1. Union Of India through
The General Manager,
Central Railway,
Central Railway Headquarters
Bombay V.T.
2. The Divisional Railway Manager,
Central Railway,
Bhusawal Division,
Bhusawal.
3. The Deputy Chief Electrical
Engineer (Construction),
Central Railway,
Bhusawal Division,
Bhusawal.
4. The Deputy Electrical Engineer,
Electric Locomotive Workshop,
Central Railway,
Bhusawal. ... Respondents.

: ORAL ORDER :

PER.: SHRI R. G. VAIDYANATHA, VICE-CHAIRMAN

Heard Shri D. V. Gangal, Counsel for the
applicant.

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2. In this application, the applicant is praying for a direction to the respondents to regularise the service by screening him and to declare that the order passed by this Tribunal dated 18.09.1997 is per incuriam.

3. The present application is not maintainable as the applicant has filed previous O.A. No. 658/96 for identical relief. A Single Member of this Tribunal by a considered order dated 18.09.1997 dismissed that application, after hearing both the parties. Now the applicant has filed the present application for identical relief saying that the Tribunal's decision is per incuriam, since it did not take into consideration the earlier binding judgement of a Division Bench in O.A. No. 400/90.

4. On perusal of the order dated 18.09.1997 it is noticed that the Tribunal considered the decision in O.A. No. 400/90 and came to the conclusion that it cannot be applied in the facts and circumstances of the case and the applicant's services have been terminated by the order of discharge as per Rules. Hence, he is not entitled to the relief.

5. In my view, the same point cannot be re-agitated by filing a fresh O.A. Whether the previous judgement is right or wrong, unless it is set aside by an higher authority or reviewed by the same Bench who decided that case.

6. One of the principles of public policy is that the judgement of a Court or Tribunal, whether it is right or wrong, it has to remain final unless and until it is set aside by higher Court or by any other proper forum. The same issue or points cannot be re-agitated by the same party by filing a fresh case before the same Tribunal. I am not impressed with the arguments of the Counsel for the applicant that since the entire C.P.C. is not made applicable, principles of 3.11 C.P.C. cannot be made applicable. Finality of judgement is a sound principle of public policy. A judgement which has become final cannot be questioned by a party to the litigation. Principles of constructive res judicata are attracted. In the circumstances, I hold that the present application is not maintainable and barred by constructive res-judicata.

7. In the result, the O.A. is rejected at the admission stage.

R. G. Vaidyanatha
(R. G. VAIDYANATHA)
VICE-CHAIRMAN.

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