

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH, JAIPUR.

O.A.No.580/95

Date of order: 6-3-1998

Kana Ram Meena

: Applicant

Vs.

Union of India & Ors.

: Respondents

Mr.C.B.Sharma

: Counsel for applicant

Mr.M.Pafiq

: Counsel for respondents.

CORAM:

Hon'ble Mr.O.P.Sharma, Administrative Member

Hon'ble Mr.Patan Prakash, Judicial Member.

PEP HON'BLE MR.O.P.SHARMA, ADMINISTRATIVE MEMBER.

In this application under Sec.19 of the Administrative Tribunals Act, 1985, the applicant has sought the following reliefs:

"(i) That the orders of re-allotment dated 9.6.95 (Annx.A1) and order for further posting dated 14.6.95 (Annx.A2) and 20.6.95 (Annx.A3) be quashed.

(ii) That the respondents be directed to allow the applicant to work at Jaipur GPO present place of posting or any office situated at Jaipur and as alternate respondents be directed to implement the order dated 23.5.95/29.5.95 (Annx.A14) and withdraw the order dated 31.5.95 (Annx.A15) in respect of applicant's by which applicant stands transferred to Alwar H.O.

(iii) That the respondents be further directed to treat the applicant on duty from 4.11.95 onwards from the date of rejection of request, as the genuine request has not been considered by the respondent No.2.

(iv) Any other order/direction/relief may be passed in favour of the applicant which may be deemed just and proper under the facts and circumstances of the case.

(v) That the cost of this application may be awarded to the applicant."

(Signature)

2. Notices of admission were issued on 13.12.95 and reply to the O.A was filed on 31.1.96. In the reply, the respondents have taken a preliminary objection that the application is barred by the principles of res judicata. They have added that the applicant had earlier also filed an O.A claiming the same reliefs as claimed in this application. In the earlier O.A, the Tribunal was not inclined to accept the identically worded prayers and had issued a direction that the applicant shall make a representation to the Chief Post Master General stating therein the reasons for seeking transfer to Alwar or any place of his choice except Jaipur and such representation shall be considered sympathetically by the Chief PMG who shall take a decision thereon within one month. The representation made by the applicant was considered and has been disposed of. According to the respondents he cannot claim the same reliefs by filing this O.A, once the matter had already been decided by the Tribunal.

3. On the question whether the application is barred by the principles of resjudicata, the learned counsel for the applicant stated that many of the issues raised in the earlier application had not been adjudicated upon by the Tribunal and therefore, it became necessary to file the present O.A raising those very grounds which were raised in the earlier O.A which were not adjudicated upon by the Tribunal. To support the plea that such an application was maintainable, he cited before us a judgment of the Principal Bench of the Tribunal in Nalam Kandam Bharkaran Vs. Union of India & Ors, 1989 (1) SLJ (CAT) 221. In that case the Tribunal had quashed the order declaring the applicant as ad hoc but had not given any decision on his termination. The applicant had filed a fresh application against termination. The respondents had taken the plea that the second application was hit by the principles of resjudicata

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as all the issues raised in the earlier O.A would be deemed to have been decided when the Tribunal passed order in that case. According to the learned counsel for the applicant this plea was rejected by the Tribunal and the second O.A was entertained for disposal on merits and appropriate relief was granted to the applicant.

4. The learned counsel for the respondents draw attention to the prayers made in the relief clause in the earlier O.A No.415/95 disposed of by order dated 28.9.95. The summary of the prayers made in the relief clause as incorporated in para 1 of the Tribunal's order dated 28.9.95 is as follows:

"In this application under Sec.19 of the Administrative Tribunals Act, 1985 Shri Kana Ram Meena has prayed that the orders of reallotment dated 9.6.95 (Annx.A1) to Southern Region and the orders of further posting dated 14.6.95 (Annx.A2) to Kota and dated 20.6.96 (Annx.A3) to Dunderpur may be quashed and the respondents may be directed to allow the applicant to work at Jaipur GPO where he is posted at present. His alternative prayer is that the respondents be directed to implement the order dated 23.5.95/29.5.95 (Annx.A10) posting the applicant to Alwar or he may be posted in any office at Jaipur."

He added that the prayers made in the earlier O.A and those made in items (i) & (ii) of the relief clause in the present O.A at page 20 thereof are identical. The only new prayer in the present application would be that ^{at} item (iii) regarding his being taken on duty from 4.11.95 onwards, from the date of rejection of his request. Thus, the present application, according to him, substantially contains the same grounds as were contained in the earlier O.A. In support of his plea that such second application was not maintainable, he placed reliance on a judgment of the Madras Bench of the Tribunal, K.

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Ramasamy Vs. General Manager, Suthern Railway, Madras and Anr, 1988(7) SLP 134. In this judgment, the Tribunal had observed that the applicant had challenged the issue of his nonpromotion by filing a Writ Petition before the Kerala High Court and that the writ petition had been disposed of on merits after perusal of the relevant files produced by the Railways. In the application before the Tribunal, the applicant had again questioned the order rejecting his claim for promotion. Such an application was held by the Tribunal to be barred by the principles of resjudicata. Therefore, according to him, the present application was not maintainable.

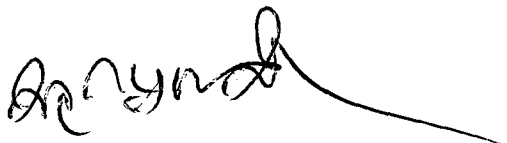
5. We have heard the learned counsel for the parties and have gone through the material on record. A comparison of the reliefs (i) and (ii) claimed in the present application and those claimed in the earlier O.A No.415/95, as summarised above show that the reliefs claimed in the two applications are identical. Reliefs Nos (i) & (ii) are, therefore, barred by the principles of resjudicata. The learned counsel for the applicant argued that the Tribunal had not given its findings on all the reliefs claimed and therefore it became necessary to reagitate those reliefs in the present O.A on which no decision has been given by the Tribunal. We have carefully gone through the order dated 28.9.95 passed by the Tribunal in the earlier O.A and find that all the issues raised by the applicant were considered but the limited relief granted was that the applicant shall make a representation to the Administration regarding the place/places to which he wants posting and such representation shall be considered on merits. Impliedly all the other reliefs claimed by the applicant were rejected. Therefore, the first two reliefs claimed by the applicant cannot be reagitated now, being barred by the principles of resjudicata.

6. The judgment cited by the learned counsel for the

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applicant is no help for him. He has quoted there from selectively. In fact in this judgment the Tribunal had itself noted that while quashing the impugned order it had given liberty to the applicant to approach it again in case the respondents were to take any further action on the basis of the order of termination. The Tribunal had thus left the question open for decision in a fresh application in case the impugned order was sought to be implemented by the respondents in future. In O.A No.415/95 decided on 23.9.95, no such permission had been granted to the applicant. Therefore, the judgment cited by the learned counsel for the applicant has no applicability.

7. The only new prayer in the present application is at item (iii), which is to the effect that the respondents may be further directed to treat the applicant as on duty w.e.f. 4.11.95 onwards from the date of rejection of his request. The learned counsel for the applicant stated that he had made a representation to the respondents in pursuance of the directions of the Tribunal given in earlier O.A No.415/95 and the representation has been rejected. Although, the order rejecting the representation had been submitted alongwith the present O.A as Annx.A6, it had not specifically challenged or sought to be quashed in item (iii) of the relief clause. Therefore, substantially in this application the applicant has prayed for the same reliefs which were sought in the earlier O.A. This application is, therefore, rejected as being barred by the principles of resjudicata at the stage of admission itself. No order as to costs.



(Ratan Prakash)

Member(Judl)



(O.P. Sharma)

Member(Adm).