

Central Administrative Tribunal
Jabalpur Bench

OA No.675/05

Jabalpur, this the 2nd day of August, 2005.

C O R A M

Hon'ble Mr.M.P.Singh, Vice Chairman

Hon'ble Mr.Madan Mohan, Judicial Member

Smt.Nagina Begum
Wife of Shri Abdul Rahim
R/o Beside Footatal,
Popular Factory/Bakery Near Saiyad Baba
Major House No.523, Post Lakargunj
Footatal, Jabalpur.

Applicant

(By advocate Shri Bhoop Singh)

Versus

1. Union of India through
Secretary
Defence Production Department
New Delhi.
2. The Chairman
Ordnance Factory Board
10-A, S.K.Bose Marg,
Kolkata.
3. The General Manager
Vehicle Factory
Jabalpur
4. The Collector
Jabalpur.

Respondents.

O R D E R (oral)

By Madan Mohan, Judicial Member

Heard learned counsel for the applicant on admission. The applicant had earlier filed an OA No.107/04, which was decided vide order dated 26th of March 2004 directing the respondents to consider



and decide the representation of the applicant within a period of three months (Annexure A-10). The respondents have passed an order dated 23rd July, 2004 (Annexure A-11) in compliance with the aforesaid order of the Tribunal. Thereafter the applicant filed an OA No. 642 of 2004 which was decided by the Tribunal vide order dated 18th August, i.e. OA No. 642/2004 2004. In this OA the applicant has claimed the following reliefs :

*(i) The Hon'ble Tribunal may kindly be pleased to issue a writ in the nature of mandamus certiorari or other and command the respondent and kindly quashed the termination order dated 3.3.94 passed by respondent No. 3 and the order dated 23.7.04 passed by respondent No. 3 G.M. who have wrongly and illegally conducted a enquiry in the back of petitioner while he was mentally unsound therefore, every action of the respondent is without jurisdiction and no legal power under the provision of law, the entire proceeding be declared as void invalid and against the provision of law as well as against the principle of natural justice.

(ii) The Hon'ble Tribunal further kindly be directed the respondent No. 3 to get admitted in the hospital and provide all the medical treatment to the petitioner husband and provide financial help to the family for surviving including salary and other consequential benefit in the interest of justice.

(iii) The Hon'ble Tribunal further kindly be directed to the respondent to supply all the relevant documents to the petitioner, so that the actual grounds could be brought in the notice of this Hon'ble Tribunal and further be declared that the respondents have exercise the colour of power without jurisdiction, despite of petitioner is mentally unsound therefore, all the financial benefit to be extended to the petitioner under the facts and circumstances of the case.

(iv) That any other writ, order, relief or direction which deems fit and may kindly be issued in favour of petition in the interest of justice.

(v) The cost of petition may kindly be awarded."

The Tribunal while deciding the said OA has held that "(I)n view of the fact that there is no supporting evidence of the mental sickness of the applicant and also in view of the judgment of Ramesh Chand Sharma (supra), the OA is not maintainable, hence dismissed. No order as to cost." Now again the applicant has filed the present Original Application claiming exactly the same reliefs as has been

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claimed by him in his earlier OA No. 642/2004. The applicant in his present OA has claimed the following reliefs :

"(i) The hon'ble Tribunal may kindly be pleased to issue a writ in the nature of mandamus, certiorari or other and command the respondent kindly quashed the termination order dated 23.7.04 & alleging the order passed on 3.8.94 informed by the Collector Annexure A9 and Annexure A-11 passed by the respondent No. 3/4 is illegal against the law & provision and without jurisdiction because the petitioner husband is mentally unsound and handicapped therefore, no rules provide the proceedings of mental unsound persons, so that entire proceeding is void against the principal of natural justice,

(ii) The hon'ble Tribunal further kindly be directed the respondent No. 3 to get admitted in the hospital and provide all the medical treatment to the petitioner husband including financial help to the family for surviving or other consequential benefit in the interest of justice.

(iii) The hon'ble Tribunal further kindly be directed to the respondent to supply all the relevant document to the petitioner, so that the actual circumstances could be brought before the Hon'ble Tribunal and further be declared the action of respondent is without jurisdiction, exercise the colour of power with the mental unsound handicapped person, under the facts & circumstances of the case,

(iv) That any other writ, order, direction and relief which deems fit and proper may kindly be issued in favour of the petitioner in the interest of justice.

(v) the cost of petition may kindly be awarded."

On perusal of the reliefs claimed by the applicant in both the Original Applications, we find that the reliefs are exactly similar to each other. Once the Tribunal has decided the OA No. 642/2004 on merits and on limitation it cannot re-adjudicate the same matter again as it is not an appellate court. Hence, the present OA is hit by the principles of res-judicata. Apart from it we also find that as per Annexure A-14 the applicant's husband is said to be a mentally retarded person, then this OA should have been filed in the name of applicant's husband Shri Abdul Rahim representing his wife Smt. Nagina Begum as next friend.

2. Considering the above facts, we are of the opinion that this Original Application is not maintainable and is accordingly, dismissed at the admission stage itself.

(Madan Mohan)
Judicial Member

(M.P. Singh)
Vice Chairman

"SA" /aa.

कृष्णकल रंग ओ/व्या..... जनकपुर, पि.....
प्रतिलिपि दाखिला
 (1) सरिय, उच्च अदायक विधायक, जनकपुर
 (2) आदेशक ली/ली रमी/रमी
 (3) प्रत्यार्पि श्री/र्मिनी/रमी
 (4) व्याधाल, योग्य जनकपुर लक्ष्मी
 सुनिला एवं आदेशक कार्यालयी/देव
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 उप रजिस्ट्रार

Bhup Singh
B.P. Singh

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