

CENTRAL ADMINISTRATIVE TRIBUNAL
JAIPUR BENCH, JAIPUR

ORDER SHEET

12

ORDERS OF THE TRIBUNAL

2.5.2011

OA 325/2009

Mr.Sumit Khandelwal, counsel for applicant.
Mr.D.C.Sharma, counsel for respondents.

Heard learned counsel for the parties. The OA stands disposed of, by a separate order.

Anil Kumar

(Anil Kumar)
Member (A)

K.S. Rathore

(Justice K.S.Rathore)
Member (J)

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
JAIPUR BENCH, JAIPUR.

Jaipur, the 2nd day of May, 2011

ORIGINAL APPLICATION No.325/2009

CORAM :

HON'BLE MR.JUSTICE K.S.RATHORE, JUDICIAL MEMBER
HON'BLE MR.ANIL KUMAR, ADMINISITRATIVE MEMBER

Anil Kumar Jain
S/o Shri Bhanwar Lal Jain,
R/o Singhal Departmental Stores,
Church Road, in front of CISF Gate,
Deoli, District Tonk (Rajasthan).

... Applicant

(By Advocate : Shri Sumit Khandelwal)

Versus

1. Union of India through
Secretary to the Govt. of India,
Ministry of Urban Development,
CPWD, Nirman Bhawan,
New Delhi.
2. Chief Engineer,
CPWD, North Zone,
East Block, R.K.Puram,
New Delhi.
3. Superintending Engineer (E),
CPWD, Jaipur Central Electrical Circle,
Nirman Bhawan, Sector-10,
Vidyadhar Nagar,
Jaipur.

... Respondents

(By Advocate : Shri D.C. Sharma)

ORDER (ORAL)

Learned counsel for the applicant restrains himself upto the extent of direction issued by this Tribunal vide its judgement dated 13.3.2008, passed in OA 82/2008 [Anil Kumar Jain v. Union of India & Ors.], whereby the applicant



was directed to file appeal before the appellate authority and it was made clear that in case the Chief Engineer who, according to the applicant, is the appellate authority and has already applied his mind or has given instructions to the disciplinary authority to decide the matter in the manner he did, it will be permissible for the appropriate authority to nominate an ad hoc appellate authority so that the appeal of the applicant can be considered and decided in accordance with rules/law, as the right to file appeal cannot be defeated and, accordingly, the OA stood disposed of with a liberty the applicant to file appeal within a period of 30 days from the date of passing of that order.

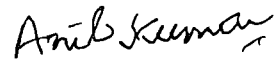
2. It is not disputed that the applicant had filed his appeal and the same was considered and disposed of vide order dated 29.7.2008 (Ann.A/1). It is pointed out by learned counsel for the applicant that the order impugned in the present OA i.e. order dated 29.7.2009 (Ann.A/1) has been passed by the Chief Engineer (E), i.e. the same authority, and not in accordance with the direction issued by this Tribunal i.e. to nominate an ad hoc appellate authority.

3. It is also revealed by the bare perusal of para-11 of the reply submitted by the respondents that appeal of the applicant dated 9.4.2008 was considered and the applicant was heard personally on 9.7.2008 by the appellate authority i.e. the Chief Engineer (E) i.e. respondent No.2. Further, in para-15 of the reply, it is submitted that the Chief Engineer (E) being the appellate authority has decided the appeal of the applicant. Meaning thereby, the respondents have not comply with the direction issued by this Tribunal in true and letter spirit.

4. Consequently, without considering the merit and without issuing any direction, we deem it proper to direct the respondents to nominate an ad hoc appellate authority and hear the appeal of the applicant afresh expeditiously but not later than three months from the date of receipt of a copy of this order.



5. With these observations, the OA stands disposed of. No order as to costs.



(ANIL KUMAR)
MEMBER (A)



(JUSTICE K.S.RATHORE)
MEMBER (J)

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