

Reserved

**CENTRAL ADMINISTRATIVE TRIBUNAL ALLAHABAD BENCH,
ALLAHABAD**

Original Application No. 330/00377/2018

Pronounced on 1st day of November, 2018

**Major (Dr.) Farah Deebe
By Advocate: Sri B.N. Singh**

Applicant

Versus

**Union of India and others
By Advocate: Sri L.P. Tiwari**

Respondents

ORDER

On 4.10.2018, this Tribunal heard as many as five Misc. Applications.

2. Sri B.N. Singh, Advocate represented applicant and Sri L.P. Tiwari, Senior Standing Counsel appeared on behalf of respondents.

MISC. APPLICATION No. 330/01714/2018:

Sri B.N.Singh, learned counsel for applicant has moved this Misc. Application for recall of order dated 3.8.2018 of this Tribunal in this O.A. It appears that this O.A. was fixed for hearing on 29.8.2018. On 31.7.2018, a Misc. Application No. 1562/2018 (Expedite Application) was filed by Sri L.P. Tiwari, counsel for respondents for early hearing of this case. This expedite application was fixed for hearing on 3.8.2018. This date was fixed on 31.7.2018. The Tribunal directed that rejoinder be filed positively by 17.8.2018 and registry was directed to list this case for hearing on stay vacation application on 20.8.2018 before Division Bench. The order dated 3.8.2018 is reproduced below:-

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD BENCH	
ORDER SHEET	
COURT NO. : 1 03/08/2018 M.A./330/1562/2018 MAJOR FARAH DEEBA O.A./330/377/2018 -V/S- M.A./330/1506/2018 M/O DEFENCE M.A./330/1507/2018 ITEM NO: 74 FOR APPLICANTS(S) Adv. : Shri Bhoopendra Nath Singh FOR RESPONDENTS(S) Adv.: Shri L.P. Tiwari	
Notes of The Registry	Order of The Tribunal
	<p>Heard counsel for the parties on M.A. No.330/1562/2018 (Expedite Application) filed by Shri L.P. Tiwari seeking for early hearing of the case.</p> <p>Counsel for the applicant, Shri B.N. Singh has vehemently argued that no short date may be given as the next date is already fixed on 29.08.2018 for filing Rejoinder. Whereas, counsel for the respondents submits that matter relating to transfer of the applicant which was stayed by this Tribunal and for that reason working of the Department has been affected. Therefore, he is seeking for an early date.</p> <p>Since, the matter pertains to Transfer, which was stayed by this Tribunal, applicant is directed to file his Rejoinder positively on 17.8.2018. Thereafter, registry is directed to list this case for hearing on Stay Vacation Application on 20.08.2018 before Division Bench.</p> <p>Accordingly, the M.A. is disposed of.</p> <p>(RAKESH SAGAR JAIN) MEMBER (J)</p> <p>Sushil</p>

2. Sri B.N. Singh, learned counsel for applicant has moved the present application No. 1714/2018 for recall of this Tribunal order dated 3.8.2018 on the ground that he was not present on

3.8.2018 and also for the reasons that there is no urgency for expediting the hearing of this case.

3. It is pertinent to point out that the matter pertains to transfer of an employee and that O.A. was fixed for hearing on 29.7.2018. The Tribunal by aforesaid order dated 3.8.2018 merely preponed the hearing of case by 9 days. The Tribunal was competent to pass the aforesaid order.

4. The claim of Sri B.N. Singh, learned counsel for applicant that he was not present on 3.8.2018 cannot be considered at this stage for the simple reason that Tribunal had in fact noted the presence of Sri B.N. Singh on 3.8.2018. Sri B.N. Singh says that he was not present and his junior Sri Radhey Shyam Yadav was present. Be that as it may, the fact remains that either Mr. B.N. Singh himself was present as noted by this Tribunal in his judicial order or his junior was present. The presence of either of counsel was sufficient for Tribunal to decide the expedite application. In any case, the earlier fixed date 29.8.2018 and subsequent preponed date 20.8.2018 have passed and there is no ground for upsetting the order dated 3.8.2018. In our opinion, the recall application No. 1714/2018 has also become infructuous. Therefore, Misc. Application No. 330/01714/2018 is dismissed.

MISC. APPLICATION NO. 330/01856/2018 AND
MISC. APPLICATION NO. 330/01507/2018

Both applications are connected. Therefore, are being decided by common order.

2. Misc. Application No. 330/01507/2018 has been moved by the respondents for condoning the delay in filing the counter affidavit. It appears that respondents could not file their counter affidavit within the given time of three weeks. He filed their counter affidavit on 24.7.2018 along with Misc. Application No.

1507/2018 requesting for condoning the delay in filing counter reply. Counter Affidavit is necessary for effective adjudication of the O.A. The pleadings filed on behalf of the Govt. department involve considerable consultations within department as well as their counsel. Therefore, some delay in submission of pleadings is inevitable. The respondents have submitted that they could not file counter affidavit within given time due to administrative reasons. We believe that cause shown is sufficient.

3. On the other hand, counsel for applicant has moved Misc.Application No. 330/01856/2018 for rejection of delay condonation application No. 330/01507/2018 moved by respondents. We believe that in the interest of justice and for effective adjudication of this O.A., permission to file counter affidavit is necessary. Therefore, Misc. Application No. 330/01507/2018 for condoning the delay in filing counter affidavit is allowed. Delay is condoned. Misc. Application No. 330/01856/2018 for rejecting the delay condonation application is dismissed.

4. Both the Misc. Applications are accordingly decided.

MISC. APPLICATION NO. 330/01855/2018

This Misc. Application No. 330/01855/2018 has been moved for summoning the certain documents mentioned in various paragraphs of counter affidavit. Learned counsel for applicant says that Internal Complaint Committee was constituted for verifying the allegation of harassment but neither the report of this Committee nor the proceedings of this committee has been placed before this Tribunal. Learned counsel for applicant has further submitted that a Court of Inquiry was also constituted but its report has not been submitted nor the statement of witnesses have been produced.

2. We have carefully examined all the material. We believe that considering rival allegations, it would be appropriate to peruse the report of Court of Inquiry. Perusal of counter affidavit indicates, a Court of Inquiry was indeed held. Part of report of that inquiry has been incorporated into the counter affidavit but unfortunately the complete report has not been placed. The contents of counter affidavit indicate that a Court of Inquiry was constituted and thereafter an Internal Complaint Committee was also constituted for ascertaining the allegations of harassment. We believe that report of Court of Inquiry and report of Internal Complaint Committee set-up for probe of allegation of harassment, are required for deciding the stay annulment application. Therefore, Misc. Application No. 1855/2018 is allowed and following orders are passed:-

- a) Respondents are directed to submit report of Court of Inquiry within 2 weeks.
- b) The report of Internal Complaint Committee constituted to probe of sexual harassment may also be submitted within 2 weeks. The respondents are not required to submit separate statement of witnesses recorded during the course of proceedings of either in Court of Inquiry or Internal Complaint Committee. Only final reports, if any, are required to be filed by respondents.

MISC. APPLICATION NO. 330/01506/2018:

This Tribunal has heard counsel for both the parties on stay annulment application on 4.10.2018. We have summoned certain reports while deciding Misc. Application No. 1855/2018, we believe that these reports are required for adjudication of stay annulment application No. 1506/2018. Therefore, at this stage, we are not

passing any order on stay annulment application. Fix 19.11.2018
for hearing on stay annulment application No. 330/01506/2018.
Till then, parties are directed to maintain status quo.

(MOHD. JAMSHED)
MEMBER (A)

(JUSTICE BHARAT BHUSHAN)
MEMBER (J)

HLS/-