

Central Administrative Tribunal
Principal Bench
New Delhi

RA 222/2015 with MA No.2831/2015
in
OA No.368/2008

Order Reserved on: 11.03.2016
Order pronounced on 18.03.2016

Hon'ble Shri V. Ajay Kumar, Member (J)
Hon'ble Shri P. K. Basu, Member (A)

Girdhari Lal Verma
R/o House No.F-51, V&PO Mahipalpur
New Delhi – 110 037.

... Applicant

(By Advocate: Mr. Malaya Chand)

Versus

1. Govt. of NCT of Delhi, through
The Chief Secretary
Delhi Sachivalaya, I.P.Estate
New Delhi – 110 002.

2. Govt. of NCT of Delhi, through
The Secretary
Services Department
Service-I Branch
Delhi Secretariat
7th Level, `B' Wing
I.P.Estate
New Delhi - 110 002.

... Respondents

(By Advocate: Mr. R.N.Singh)

ORDER

By V. Ajay Kumar, Member (J):

The review applicant, who retired as Head Clerk (DASS Grade-II) on 30.06.2000, initially filed OA No.368/2008 seeking regularization of his period of suspension from 04.12.1987 to 11.12.1995 as on duty for all purposes including as qualifying service for pension, as he was acquitted in the criminal case by a Judgment dated 20.11.1997, and also for a direction to finalise his case for promotion which was kept in a sealed cover by the DPC held in the year 1992 and for payment of retirement benefits with interest.

2. This Tribunal by its order dated 07.01.2009 allowed the said OA No.368/2008 as under:

"15. On the basis of above discussion, the OA is allowed only partially to the extent of payment of interest at the rate of 8 per cent for the period of delay in payment of the dues, which have already been paid to the Applicant. If the decision of the Honourable Delhi High Court in the criminal appeal is in the Applicant's favour, he may ask for necessary relief from the Department in regard to other claims and if not granted, then he may approach the Central Administrative Tribunal. The payment of interest should be made to the Applicant within three months from the date of receipt of a certified copy of this order. No costs."

3. Thereafter, the applicant filed OA No.3438/2012 seeking the following relief(s):

"(a) The respondent may please be directed to pass order for regularization of the suspension period for 04.12.1987 to 11.12.1995 as on duty for all purposes including pay and allowances with all consequential benefits.

(b) The respondents may please be directed to finalise the case of promotion of the applicant from Grade II (DASS) to Grade I (DASS) as due or w.e.f. 1992 where his juniors have been promoted with all consequential benefits, including rise in pension emoluments.

(c) The respondent may please be directed to accordingly release gratuity dues, commutation of authorized 40% pension dues, grant of regular pension after suspension regularization, encashment of balance leave after suspension regularization, promotion and pay other retiral dues withheld with consequential benefits with 12% interest from due date to the applicant.

(d) The respondents may please be directed to compensate the applicant for acting malafidely in non processing the promotion case as per procedure non grant of entitled promotion as due and harassment in granting the due lawful reliefs to the applicant.

(e) Any other order direction or relief as deemed appropriate in the circumstances of the case may also please be granted."

4. This Tribunal by its order dated 21.11.2013 disposed of the said OA No.3438/2012 as under:

"8. In view of the aforementioned, the OA is disposed of with direction to the respondents to pay interest to applicant on amount of gratuity with effect from the date following the date of expiry of three months after retirement @ 8% P.A.

9. As far as the prayer of the applicant regarding his promotion w.e.f. 1.1.1992 is concerned, it has been submitted by Ms. Rashmi Chopra, learned counsel for respondents that he had sought such relief in OA No.368/2008 and the same was specifically rejected as barred by limitation. Para 9 of the order reads as undedr:-

"9. We do not agree with the learned counsel for the respondents that multiple reliefs have been sought in this OA because of which it is not maintainable. All the reliefs in this OA stem from the fact of suspension of the Applicant. However, in so far the issue regarding non-consideration for promotion in 1992 is concerned, it is obviously hopelessly barred by limitation under Section 21 of the Administrative Tribunals Act, 1985."

10. We agree with the submission made by Ms. Rashmi Chopra that prayer of the applicant for promotion is barred by the principle of res-judicata thus rejected."

5. The applicant filed RA No.151/2014 in OA No.3438/2012 and the same was dismissed with an observation that the applicant has attempted to mislead the Tribunal.

6. Aggrieved with the orders of this Tribunal in OA No.3438/2012, dated 21.11.2013, as affirmed in RA No.151/2014, dated 26.08.2014,

the applicant filed WP(C) No.3624/2015 and the same was dismissed as withdrawn on 15.04.2015, as under:

"After some arguments, counsel for the petitioner seeks leave to withdraw this petition with liberty to take appropriate legal remedy by filing a review application before the learned Tribunal.

The present writ petition is accordingly dismissed as withdrawn, reserving liberty to the petitioner to take up his legal remedy as available to him in law."

7. The applicant filed the present RA No.222/2015 along with an MA No.283/2015, seeking condonation of delay of 2404 days in filing the RA.

8. Heard Shri Malaya Chand, the learned counsel for the review applicant and Shri R.N.Singh, the learned counsel for the respondents, and perused the pleadings on record.

9. It is relevant to mention the prayer made in the present RA, which reads as under:

"(i) to allow the present R.A.

(ii) to consequently recall the order dated 07.01.2009 (Annexure R-1) consequently direct the Official Respondent to consider the name of applicant for promotion as per law and also to open the Sealed Covers in respect of the Applicant.

(iii) to grant all consequential relief flowing therefrom;

(iv) to direct the Respondent to pay exemplary costs of litigation to the Applicant all through; and

Pass any such other further order/orders this Hon'ble Court may deem fit and proper in the facts and circumstances of the case be also passed in favour of the petitioner and against the respondents, in the interest of justice."

10. The review applicant is fully aware that the orders of this Tribunal dated 07.01.2009 in OA No.368/2008 have attained finality. Further he is also aware about the observations made by this Tribunal in RA

No.151/2014 in OA No.3438/2012 that he has attempted to mislead the Tribunal. Still, he has the audacity to file the present RA by again misleading this Tribunal. When his WP(C) No.3624/2014, which was filed against the order dated 21.11.2013 in OA No.3438/2012 as upheld in RA No.151/2014 dated 26.08.2014 was dismissed as withdrawn, he was fully aware that the liberty granted to him by the Hon'ble High Court is not to seek review of an order in another OA against which the said Writ Petition is not filed. Still he filed the present RA by showing the order dated 15.04.2015 in WP(C) No.3624/2015 as if the liberty was given to file review in OA No.368/2008. The said act of the applicant is clear abuse of process of law and once again he tried to mislead this Tribunal.

11. In the circumstances and for the aforesaid reasons, the RA and the MA are dismissed with costs of Rs.10,000/- payable by the applicant to the Delhi State Legal Services Authority, within two months from the date of receipt of a copy of this order.

(P. K. Basu)
Member (A)

(V. Ajay Kumar)
Member (J)

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