

Central Administrative Tribunal Principal Bench, New Delhi

R.A. No.83/2016 in T.A.No.11/2013

Monday, this the 30th day of January 2017

Hon'ble Mr. V. Ajay Kumar, Member (J)
Hon'ble Mr. K.N. Shrivastava, Member (A)

Mr. D Tiwari

...Applicant

(Mr. D S Chaudhary, Advocate)

Versus

Union of India & others

..Respondents

(Mr. D S Mahendru, Advocate)

O R D E R (ORAL)

Mr. V. Ajay Kumar:

The applicant, a Junior Armament Officer in ARC DG (S) Cabinet Secretariat, New Delhi, initially filed W.P. (C) No.8405/2010. The said W.P. was transferred to this Tribunal, as the Hon'ble High Court of Delhi has no jurisdiction over the service matters of the employees of Cabinet Secretariat and the order dated 12.02.2013 passed in said W.P. reads as under:-

“1. Counsel for the respondents states that he will deposit the costs of `5000/- in terms of the order dated 11.10.2012 within a period of two weeks from today, failing which, the costs will stand enhanced to 10,000/-.

2. The pleadings in the writ petition, as also the submissions which are urged on behalf of the respondents, show that the petitioner is an employee of the Cabinet Secretariat i.e. the Central Government, Disputes pertaining to service aspects of central government employees have to be decided by the Central Administrative Tribunal.

3. Accordingly, this petition is transferred to the Central Administrative Tribunal, Principal Bench, Delhi and parties are directed to appear before the Registrar of the Central Administrative Tribunal on 3rd April, 2013.”

2. Accordingly, the W.P. was transferred to this Tribunal and registered as T.A. No.11/2013. Though in the order dated 12.02.2013 passed by the Hon'ble High Court it was specifically indicated that the Tribunal has jurisdiction to adjudicate his claim, but the applicant on 24.04.2014 submitted before the Tribunal that he is a member of Armed Force of the Union and that this Tribunal has no jurisdiction. Accordingly, he withdrew the T.A. No.11/2013 and the order dated 24.04.2014 reads as under:-

“At the outset, learned counsel for the applicant submitted that the applicant is a member of Armed Force of the Union and not being a civilian employee of Air Force, this Tribunal has no jurisdiction to entertain this Application in view of clear bar of Section 2(a) of the Administrative Tribunals Act, 1985. He further submitted that the applicant is aggrieved by the order of Air Commodore, President Air Force Central Medical Establishment dated 18.08.2010 declaring him permanently unfit for Flight Gunner Branch and the order dated 29.10.2010 of the Medical Board dismissing his appeal. He, therefore, submitted that the applicant has been advised to withdraw this Application to enable him to apply for review of order dated 12.2.2013 of the Hon'ble High Court in Writ Petition (Civil) No.8405/2010 whereby the Writ Petition is transferred to this Tribunal. Learned counsel for the respondents has no objection to the prayer.

2. In view of the statement made by learned counsel for the applicant, this Application is permitted to be withdrawn.”

3. Thereafter, the applicant filed fresh W.P. (C) No.7028/2015 before the Hon'ble High Court. Again the Hon'ble High Court, considering the submissions of the applicant, disposed of the said W.P. vide its order dated 15.01.2016, which reads:

“5. In view of the submission made by the counsel for the petitioner, leave is granted to withdraw the present petition, while reserving the right of the petitioner to first approach the CAT for seeking review of the order dated 24.4.2014 and if liberty is so granted, pursue the review application stated to have been filed in WP(C)No.8405/2010.

6. Needless to state that this Court has not touched the merits of the case in view of the objection with regard to the maintainability of the petition raised by the Registry. In the event the petitioner succeeds in the review application proposed to be filed before the CAT and thereafter, he approaches the Registry with a request to place before the Court, the review application filed in WP(C)No.8405/2010 for seeking review of the order dated 24.4.2014, the said application shall be listed, subject to the petitioner filing certified copies of all the relevant documents that form a part of the record of TA 11/2013 before the CAT, which he seeks to rely on for arguing the review application.”

Accordingly, in view of the liberty obtained from the Hon’ble High Court, the applicant filed the present R.A. seeking to review the order of this Tribunal dated 24.04.2014 in T.A. No.11/2013.

3. All the aforesaid facts clearly indicate that the applicant himself was responsible for the dismissal of the T.A. as withdrawn and also for the delay in filing the present R.A. It is also clear that the applicant has misled the Courts on the point of jurisdiction. In the circumstances though the applicant does not deserve any sympathy, however, in the interest of justice and in view of the orders of the Hon’ble High Court and also since the T.A. was not decided on merits, the R.A. is allowed, subject to payment of cost of `10,000/- to the Delhi State Legal Services Authority, Patiala House Courts, New Delhi, within two weeks, and in compliance of the same, Registry is directed to restore the T.A. to its original file and list for hearing on **21.03.2017**.

(K.N. Shrivastava)
Member (A)

(V. Ajay Kumar)
Member (J)

January 30, 2017
/sunil/