

**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI**

M.A. No.871/2015 & M.A.No.1689/2015
in
O.A. No.300/2014

Reserved on: 12.08.2015
Pronounced on:14.08.2015

Hon'ble Mr. Sudhir Kumar Member (A)
Hon'ble Dr. Brahm Avtar Agrawal, Member (J)

Dr. Anu Maheshwari & Others. ...Applicants.

(By Advocate: Shri Lalit Gupta)

Versus

Union of India & Others. ...Respondents.

(By Advocate: Shri R.N.Singh for Shri R.V.Sinha, Shri M.K.Bhardwaj,
Dr.Ch.Shamsuddin Khan, Shri J.P.Tiwary and Shri Shish Pal)

ORDER in MAs

Per Sudhir Kumar, Member (A):

We have heard the learned counsel for the applicants, and the learned counsels for the official respondents, as well as the private respondents, on the merits of MA No. 871/2015 and MA No. 1689/2015.

MA No. 871/2015

2. MA No. 871/2015 has been filed, praying for making certain amendments in the Original OA. The contents of the OA No. 300/20014, when filed on 28.01.2014, had been verified through individual affidavits dated 27.01.20014 of 11 applicants, who had been initially permitted to join together in filing of this OA. Since then, the name of Applicant No.11 had been permitted to be deleted from the array of parties vide order dated 15.07.2014, when his individual MA No. 1711/2014 had been allowed unopposed.

3. Therefore, as on today, the OA is before this Tribunal on the joint prayers of the 10 applicants, who had been permitted to join together under Rule 5 (a) of the C.A.T.(Procedure) Rules, 1987. However, the present MA No. 871/2015 has been filed

by making a prayer for making amendments in the O.A. only through the affidavit filed by Applicant No. 1, and the required affidavits of Applicant Nos.2 to 10 have not been filed. Learned counsels for the Official and Private Respondents have submitted that at least a few, if not all 9 applicants A-2 to A-10, have since been appointed, and have even joined their posts, and the Original OA itself has become infructuous. However, when 10 applicants had all been permitted to join together in filing of the O.A., on the basis of their individual affidavits, therefore, as on today, this M.A. for amending the O.A. cannot be allowed till all the 10 remaining applicants, who are the joint applicants in the OA, pray for carrying out such amendments in the Original OA, through their individual affidavits having been filed in this regard. Therefore, the MA No. 871/2015, filed along with a copy of an amended O.A., after its having been verified through an affidavit filed by only one of the 10 applicants of the OA, cannot be accepted by us, and is rejected.

MA No. 1689/2015

4. MA No. 1689/2015 has not been filed by any of the 10 applicants of the OA, but by the learned counsel, who has been representing the remaining 10 applicants of this OA from 28.10.2014 onwards. He has sworn to an affidavit, along with the MA filed on 19.05.2015, and has also enclosed copies of the emails sent by him to the Applicants No.2 to 10, and has pleaded for being discharged from appearing on their behalf.

5. Firstly, we do not find any provision in the CAT (Procedure) Rules, 1987, for a Counsel to file any sort of application, like the present MA, on his own behalf. Rules 2(b) and 4 (i) of the said rules only provide for an agent or a duly authorized legal practitioner to be able to file any sort of application or pleadings on behalf of applicant (s), who do not appear in person, and on whose behalf they are appearing.

6. Secondly, the communications between the counsel and his client being of a privileged nature under Section 126 of the Indian Evidence Act, 1872, since Applicants

No.2 to 10 had indeed engaged the learned counsel through their signed Vakalatnama, which is available in Part ~~£~~qfile, the application for discharging of him as a counsel, and permission to appoint a fresh advocate, can certainly be made by an applicant of the OA, but such an application, seeking discharge from the case, and seeking exemption from appearance on behalf of the applicants, cannot be made by an advocate, when he has, at the time of admission of the case, and for 16 months thereafter, pleaded that the OA may be admitted and the 10 applicants permitted to join together in filing of the OA, and has represented them before this Tribunal. In fact, his disclosure of the email correspondence entered into by him with his clients in this M.A. is in itself a voluntary violation by him of the Section 126 of the Indian Evidence Act, 1872, as the Counsel's obligation of trust, faith, and secrecy towards his Clients continues even-after his employment as such has ceased.

7. It is, therefore, reiterated that while any Miscellaneous Application can be filed by the applicant(s) and the party respondents before this Tribunal, and by their counsels acting on their behalf, but there is no provision in the A.T. Act, 1985, or the C.A.T.(Procedure) Rules, 1987, for filing of an application by a counsel who has been engaged by a party/parties. Therefore, for this reason, we find ourselves unable to enter into the realm of engagement or disengagement of their counsel by the applicant(s). Therefore, this MA No. 1689/2015 does not lie, and is rejected.

OA. 300/2014

8. Let the un-amended OA, filed jointly by the remaining 10 applicants, be listed for hearing on 06.10.2015.

(Dr. Brahm Avtar Agrawal)
Member (J)

(Sudhir Kumar)
Member (A)

/kdr/