

Central Administrative Tribunal Principal Bench, New Delhi

R.A. No.04/2017 in O.A. No.3352/2014

Order reserved on 18th May, 2018

Order pronounced on 29th May, 2018

Hon'ble Mr. Justice Dinesh Gupta, Chairman
Hon'ble Mr. K.N. Shrivastava, Member (A)

1. Union of India through its Secretary
Ministry of Micro, Small & Medium Enterprises
7th Floor, Nirman Bhawan, Maulana Azad Road
New Delhi 110 008
2. Fragrance & Flavour Development Centre
Through Additional Secretary & Development
Commissioner (MSME)-cum-Chairman
FFDC, Kannauj, UP

..Applicant

(Mr. Ajesh Luthra and Mr. R K Sharma, Advocates)

Versus

1. Dr. Aditya Kumar Sharma
s/o V.K. Sharma
c/o O P Sharma
r/o Flat No.3,
Bhanuvilla Flats, 19 Sangam Park Society
Ambabari, Ahmedabad – 380 015

..Respondent

(Ms. Anjali Chauhan and Ms. Ria Sachthey, Advocates)

O R D E R

Mr. K N Shrivastava, M (A):

This R.A. has been filed by the applicants (respondents in O.A.) seeking review of Tribunal's order dated 04.10.2016 passed in O.A. No.3352/2014.

2. The facts of this case are recapitulated as under:-

2.1 The applicant in the O.A. (respondent in R.A.) was offered appointment to the post of Deputy Director (Agro Tech), Fragrance & Flavour Development Centre (FFDC) on contract basis vide memorandum dated 31.10.2005, initially for a period of 6 months. The contract was extended for a period of 5 years by a memorandum of agreement dated 11.11.2005 and for a further period of 5 years vide another memorandum of agreement dated 10.11.2010. In other words, the contract was extended up to 10.11.2015.

2.2 The applicant in the O.A. (respondent in R.A.) had sent a pre-resignation notice dated 21.04.2013 by email, indicating therein that he intended to resign from his job w.e.f. 31.12.2013. The Office of Development Commissioner, Ministry of Micro, Small & Medium Enterprises, vide letter dated 25.04.2013, asked the applicant to submit his duly signed resignation to the Chairman, FFDC, Kannauj by Speed Post for necessary action. He accordingly sent a signed copy of the aforesaid email, i.e., the pre-resignation notice on 14.06.2013.

2.3 It is stated that much before his intended date of resignation, the authorities concerned accepted the resignation of the applicant on 25.07.2013 and also relieved him on 13.09.2013. He challenged these two orders of the respondents (applicants in R.A.) before the Tribunal in O.A. No.3352/2014. The Tribunal allowed the said O.A. vide order dated 04.10.2016. The operative part of the order reads as under:-

“11. In view of the dictum of the aforesaid judgments and the factual background mentioned hereinabove, this Application is allowed. Impugned orders dated 25.07.2013 and 13.09.2013 are hereby set aside. Consequently, the respondents are directed to take back the applicant into service forthwith. This order shall not prevent the respondents from proceeding according to the terms of contract in accordance with law.”

3. This R.A. has been filed by the respondents in the O.A. Following three grounds have been cited for seeking review of the Tribunal's order”

a) The FFDC is a non-pensionable organization and hence the provisions of CCS (Pension) Rules, 1972 do not apply to this organization. The Tribunal, while granting the reliefs to the applicant in the O.A., has relied on CCS (Pension) Rules, 1972.

b) The question of territorial jurisdiction was also glossed over by the Tribunal. The FFDC is located in Kannauj and thus it comes under the territorial jurisdiction of Allahabad Bench of the Tribunal, whereas the O.A. has been entertained by the Principal Bench.

c) The Tribunal's order was passed on 04.10.2016, whereas the second extended period of the contract had ended on 10.11.2015 itself. This aspect has also escaped the attention of the Tribunal.

4. Brief arguments of Mr. Ajesh Luthra with Mr. R K Sharma, learned counsel for review applicants and Ms. Anjali Chauhan with Ms. Ria Sachthey, learned counsel for respondent were heard on 18.05.2018.

5. We have considered the arguments of learned counsel for the parties and have also perused the pleadings.

6. We find that the Tribunal, in paragraph 10 of its order under review, has noted that the applicant had every right to withdraw his resignation before the notified date of resignation, i.e., 31.12.2013, and hence the respondents ought to have accepted the resignation from the date indicated by the applicant in his pre-resignation notice and not from any earlier date. The Tribunal in the said paragraph has also noted that “In terms of rule 26 (4) of the CCS (Pension) Rules, 1972 **also** the competent authority could refuse the withdrawal of resignation only under the circumstances indicated therein”. (emphasis supplied). The word ‘also’ mentioned by the Tribunal would clearly indicate that the Tribunal has only made a passing reference to the provisions of CCS (Pension) Rules, 1972 and has not adjudicated the matter in accordance with those Rules.

7. As regards the territorial jurisdiction, under Section 25 of Administrative Tribunals Act, 1985, the Hon’ble Chairman of the Tribunal has powers to allow transfer petition. In the instant case, the matter has been adjudicated by a Bench, which was presided over by none other than the Hon’ble Chairman himself. In view of it, we are of the view that the issue of jurisdiction has become inconsequential.

8. As regards the factum of the second extended period of the respondent (original applicant) ending on 10.11.2015, i.e., prior to the Tribunal passing the order dated 04.10.2016, suffice to say that in terms of the Tribunal’s order, the review applicants (original respondents) are obliged to pay all service benefits to the applicant up to the second extended period, i.e., 10.11.2015.

9. In view of the above observations, we do not find any necessity of reviewing Tribunal's order dated 04.10.2016 passed in O.A. No.3352/2014. Accordingly, the R.A. is dismissed.

(K.N. Shrivastava)
Member (A)

(Justice Dinesh Gupta)
Chairman

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