

CENTRAL ADMINISTRATIVE TRIBUNAL
CALCUTTA BENCH

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OA 350/00913/2014

Date of order : 10.8.2016

Present: Hon'ble Ms. Bidisha Banerjee, Judicial Member
Hon'ble Ms. Jaya Das Gupta, Administrative Member

NARAYAN SEN & ORS.

VS

UNION OF INDIA & ORS.

For the applicants : None

For the respondents : Mr.M.S.Banerjee, counsel

O R D E R (ORAL)Ms.Bidisha Banerjee, J.M.

None appeared for the applicants. We have heard 1d counsel for the respondents. Since this is a matter of 2013, Rule 15(1) of CAT (Procedure) Rules 1987 is invoked.

2. We have perused the materials on record and pleadings of the parties.
3. It could be noticed that the present applicants preferred OA 992/98 as applicant No. 5, 11, 21 and 25 therein with the prayer as under :

“.....they are entitled to the conferment of the temporary status in terms of the DOPT OM No. 51016/2/90-Estt(C) dated 10.9.93and a direction be given to the respondents to confer temporary status to the applicants w.e.f. 1.1.95 or 1.1.96 as the case may be with consequential benefits.”

The application was allowed with the following direction :

“Consequently, the application is allowed and the respondents are directed to consider the cases of the applicants for the conferment of the temporary status keeping in view the observations made above. This exercise should be completed within a period of three months from the date of the communication of the order. The applicants be also given consequential benefits as per the provision f this scheme, if they are entitled to the same.”

4. The Hon'ble High Court in WPCT 1341/01 affirmed the order of this Tribunal on 16.9.04 with the observation as under :

“In view of our aforesaid observations, we are not inclined to interfere in the writ application filed by the director Doordarshan Kendra, Kolkata, and we direct the authorities of the appellant to act in terms of the directions given by the learned Tribunal in its order dated 7th September, 2001, impugned in the instant writ application.”

5. When assailed before the Hon'ble Supreme Court the judgment of Hon'ble High Court as well as of this Tribunal, the Hon'ble Apex Court in its judgment dated 17.9.05 in Civil Appeal No. 6857/05 observed as under :

"Above being the position the Tribunal's order is clearly untenable and the High Court was in error in proceeding under the assumption that the protection given to some of the parties in Mohan Lal's case (supra) applied to the facts of the present case.

As was observed in Gagan Kumar's case (supra) the observations in paragraph 11 of Mohan Lal's case (supra) were rendered in a different factual background and context and have no application to the facts of the present case. Appeal is allowed with no order as to costs."

The judgment was delivered on merits.

6. It could be noted that praying for the same direction which they preferred in earlier OA i.e. to grant them temporary status and regularisation (consequential) in terms of 1993 scheme, the applicants have preferred the instant OA.

7. In view of the above enumerations and in view of Section 11 of the Code of Civil Procedure that :

"11. No Court shall try any suit or issue in which the matter directly and substantially in issue has been directly and substantially in issue in a former suit between the same parties, or between parties under whom they or any of them claim, litigating under the same title, in a court competent to try such subsequent suit or the suit in which such issue has been subsequently raised, and has been heard and finally decided by such Court."

We find that the present OA is clearly barred by principles of res judicata.

8. In such view of the matter the OA is dismissed. No order is passed as to costs.

(JAYA DAS GUPTA)
MEMBER (A)

(BIDISHA BANERJEE)
MEMBER (J)

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