

**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH**

MA 2542/2018
OA 670/2018

Reserved on 8.03.2019
Pronounced on 15.03.2019

Hon'ble Ms. Nita Chowdhury, Member (A)
Hon'ble Mr. S.N.Terdal, Member (J)

Krishna Kumar Prasad
Aged about 57 years,
Son of Late Shri Kamla Prasad
SSA EE Division
O/o Director
Ministry of Environment & Forests &
Climate Change Paryavaran Bhawan,
CGO Complex, Lodhi Road,
New Delhi-110003.

Residential Address
Krishna Kumar Prasad
B-118, Bharat Vihar,
Kakrola, New Delhi-110078

.... Applicant

(By Advocate: Mr. G.D.Bhandari)

VERSUS

1. Union of India through
The Secretary,
Ministry of Environment & Forests &
Climate Change Paryavaran Bhawan,
CGO Complex, Lodhi Road,
New Delhi-110003.
2. The Joint Secretary,
Ministry of Environment & Forests &
Climate Change Paryavaran Bhawan,
CGO Complex, Lodhi Road,
New Delhi-110003.
3. The Principal Secretary,
Government of Bihar,
Department of General Administration
PATNA, BIHAR.

... Respondents

(By Advocate: Mr. Ranjan Tyagi)

ORDER**Hon'ble Mr. S.N.Terdal, Member (J):****MA 2542/2018**

Heard Mr. G.D. Bhandari, counsel for applicant and Mr. Ranjan Tyagi, counsel for respondents.

2. The relevant facts of the case are that on the charge of securing the job in the respondent Ministry on the basis of fake Scheduled Tribe (ST) certificate, the applicant was removed from service by the disciplinary authority on 04.05.2012, which order of removal was upheld by the appellate authority vide order dated 4.8.2012. The applicant filed OA No.3814/2012 before this Tribunal. Vide order dated 6.11.2015, this Tribunal set aside the above said orders dated 4.05.2012 and 4.8.2012 and directed the respondents to conduct de novo departmental enquiry. In compliance with the order of this Tribunal de novo departmental proceedings were initiated against the applicant. Thereafter, after conducting necessary enquiry and investigation by the Scrutiny Committee for investigation and verification of fake caste certificate at the State level, a memo No.11/RC.-06/2016 G.A. 14688 dated 20.11.2017 was issued for cancellation of his fake ST certificate and the said inquiry report was served on the applicant vide order dated 29.12.2017 for enabling him to file written representation with respect to the said inquiry report. The applicant filed the present OA on 05.02.2018 challenging the above said memo. dated 20.11.2017 and order dated 29.12.2017 with the following reliefs.

"To set aside and quash the impugned orders no. dated 20.11.17 Annexure -A1 and OM dated 29.12.17 Annexure-A-1A being badly vitiated as humbly submitted in the forgoing paras."

After the filing of the OA, the disciplinary authority following the rules governing the departmental enquiry passed a penalty of removal from service vide order dated 26.03.2018. The applicant has filed the present MA 2542/2018 seeking permission to amend the OA challenging the order of removal passed by the disciplinary authority dated 26.03.2018.

3. The respondents have filed reply to the said MA and they have opposed the amendment and they have further stated that the applicant has not exhausted the statutory remedy of filing an appeal against the order dated 26.03.2018, as such even if the amendment is allowed, the OA becomes pre mature and it cannot be entertained as per the provisions of Section 20 of the Administrative Tribunals Act, 1985. The counsel for the applicant vehemently and strenuously submitted that as the OA is admitted and notice has been issued, therefore, under Section 19(3) of the Administrative Tribunals Act, 1985 the relief prayed for in the amended OA sought to be filed after permission under the present MA no. 2542/2018 requires to be entertained. From the perusal of the records it is seen that the same submission of the counsel for the applicant was rejected while considering another MA no.1445/2018 by this Tribunal vide order dated 24.05.2018. The relevant portion of the order dated 24.05.2018 is extracted below.

"MA 1445/2018

The applicant in the OA has challenged two Show Cause Notices dated 20.11.2017 and 29.12.2017. In these SCNs, it was stated that the applicant has furnished a forged caste certificate and thus claimed the benefit of ST.

Shri Bhandari, learned counsel for the applicant, submits that the applicant has duly replied to Show Cause Notices. However, the Disciplinary Authority vide order dated 26.3.2018 (Annexure MA/2) has removed the applicant from service. Learned counsel further submits that such an order is illegal in view of explicit provision of Section 9(4) of

Administrative Tribunals Act, 1985, wherein it is stated that "Where an application has been admitted by a Tribunal under sub-section (3), every proceeding under the relevant service rules as to redressal of grievances in relation to the subject-matter of such application pending immediately before such admission shall abate and save as otherwise directed by the Tribunal, no appeal or representation in relation to such matter shall thereafter be entertained under such rules".

We are not convinced with the arguments of Shri Bhandari. We find that Tribunal had neither stayed the impugned Show Cause Notices nor has issued any interim direction prohibiting the Disciplinary Authority from passing the final order. Hence, we do not find any merit in this MA. Accordingly, this MA is dismissed."

4. In view of chronological of events and the facts and analysis made above and in view of the fact that the applicant has not exhausted the statutory remedy available to him by way of filing appeal against the order dated 26.03.2018, the MA No. 2542/2018 is dismissed. In view of the fact that the applicant has been wasting the time of the Tribunal by frivolous reliefs and making the same submissions again and again and approached the Tribunal without exhausting statutory remedy available to him, as such the OA is dismissed with exemplary cost of Rs. 30,000/- to be paid to the CAT Bar (Library) Association.

(S.N.Terdal)
Member (J)

(Nita Chowdhury)
Member (A)

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