

CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH, NEW DELHI

R.A NO.42/2005  
IN  
O.A. NO.2215/2003

New Delhi, this the 1<sup>st</sup> day of March, 2005

HON'BLE JUSTICE MR. V.S. AGGARWAL, CHAIRMAN  
HON'BLE MR. S.K. MALHOTRA, MEMBER (A)

K.B. Kholi

...

Petitioner

Versus

Govt. of N.C.T. of Delhi & Others

...

Respondents

O R D E R (In Circulation)

BY S.K. MALHOTRA, MEMBER (A):

This application has been filed by the original applicant, Shri K.B. Kholi, seeking review of the order dated 30.11.2004 passed in OA 2215/2003.


2. The case pertains to punishment of major penalty of termination from service imposed on the applicant. After taking into consideration the relevant facts and pleadings, the OA was found to be devoid of merit and the same was dismissed vide order dated 30.11.2004.


3. In the RA filed by the applicant, it has been contended that the Tribunal only considered the plea taken by the respondents that the applicant had not made any representation, whereas he has substantial proof of having sent the representation on 9<sup>th</sup> September, 1991, followed by reminders. Certain observations made in para 3 have also been pointed out. It may be stated that the observations made in para 3 of the order dated 30.11.2004 are based on the averments made by the respondents and are not the observations of the Tribunal. Again the observations made by the Tribunal in its Order dated

10.5.1999 in OA No.394/1993 to dispose of the appeal dated 10.2.1992 does not necessarily prove that the appeal was received by the respondents. It was based on the plea made by the applicant that such an appeal was filed by him. The respondents had later taken a stand that no such appeal was pending with them. It was for the applicant to satisfy the respondents and also the Tribunal that such an appeal was, in fact, filed by him. Similarly, the point raised in the RA that the matter was actually argued by Shri Daves Singh and not by Shri R.K. Gauba cannot be taken as a ground for review of the order.

4. The Tribunal had arrived at the decision after hearing both the sides and taking into consideration the pleadings on record. We are not convinced that the applicant was absent for a bonafide reason. He had thus indulged in a grave act of mis-conduct, which is what has been observed by the Tribunal in para 7 of the order. His services were terminated after an enquiry in which he had participated. The findings which are recorded in the order dated 30.11.2004 do not suffer from any mistake, much less a glaring one, on the face of record. The applicant by means of this RA has sought to reopen the matter on merit, which is not permissible. The provisions of Rule 1 of the Order XLVII of the Code of Civil Procedure, 1908 are also not attracted in the present case.

5. In view of the above, we do not find any merit in the RA and the same is dismissed by circulation.

  
(S.K. MALHOTRA)  
MEMBER (A)

  
(V.S. AGGARWAL)  
CHAIRMAN

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