

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

MA No. 1166/2006
OA No. 1729/2003

New Delhi, this the 14th July, 2006

Present: Shri Rajeev Kumar, counsel for the applicant.

ORDER

Hon'ble Mr. N.D. Dayal, Member (A):

The applicant has filed MA 1166/2006 with the prayer that OA 1729/2003 may be revived and decided on merits.

2. OA 1729/2003 had been filed by the applicant earlier on before this Tribunal. It had been contended by the respondents that the Tribunal had no jurisdiction in the matter since the applicant was an employee on daily wage basis as part time Sweeper under BSNL. The Tribunal noted that the counsel for the applicant had been seeking adjournment without addressing the main issue of jurisdiction. It was concluded that since BSNL is not notified especially with regard to Group C and D employees this Tribunal had no jurisdiction in the matter and moreover, the applicant was a part-time Sweeper engaged by BSNL. The OA was therefore dismissed on 11.5.2004 for want of jurisdiction.

3. The applicant filed Civil Misc. Writ Petition No. 32725/2004 before the Hon'ble High Court of Judicature at Allahabad. This was decided on 16.8.2004. The only prayer was for direction upon respondent no.2 to decide the representation dated 13.08.2001 of the applicant. This was disposed of with a direction to General Manager, Telecommunication District Ghaziabad, U.P. to decide the representation of the applicant by a reasoned and speaking order in accordance with law. Subsequently, it appears that a Contempt Petition No. 843/2005 was also filed by the applicant in the Hon'ble High Court but the applicant was not found eligible for regularization by the department. It is noticed

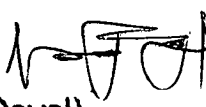
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that in the MA at page 11 a document has been filed which appears to be a copy of the decision of the Hon'ble High Court of Allahabad in Writ Petition NO.65034/2005 which was passed on 05.10.2005. In this order, the High Court has observed that the petitioner has got an alternative and efficacious remedy by way of approaching the Central Administrative Tribunal. The Hon'ble High Court after having noted the law with regard to the availing of alternative remedy available to a petitioner before approaching the Court dismissed the petition on the ground of availability of alternative remedy.

4. The learned counsel for the applicant argues that in view of the order of the Hon'ble High Court of Allahabad, the OA No.1729/2003 should be revived and taken up by the Tribunal. It was seen from the judgement of the Hon'ble High Court dated 5.10.2005 extracted at page 11 of the MA, that the order of the Tribunal dated 11.5.2004 dismissing the OA due to lack of jurisdiction did not appear to have been brought to the notice of the Court. On query the counsel for applicant fairly admitted this fact and as such it cannot be said that the Hon'ble High Court remanded the matter due to availability of alternative remedy after having considered the order passed by the Tribunal dismissing the OA.

5. Further, on a specific query, it was found that the counsel was not aware of any legal provision in this regard which could support a plea for revival of an OA which had been dismissed on the ground of jurisdiction. No ground has been advanced by the applicant in the MA by which the question of the jurisdiction of the Tribunal has been addressed.

6. In the aforesaid situation, the application falls and is dismissed. No costs.


(N.D. Dayal)
Member (A)

/kdr/