

S.P. Singh Vs. Raghubir Singh and Others

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Court : Central Administrative Tribunal CAT Delhi

Decided On : Mar-07-2012

Judge :

Judges: the Honourable Mrs. Meera Chhibber, Member (J), the Honourable Mr. Shailendra, Pandey, Member (a) & the Honourable Dr. a.K. Mishra, Member (a)

Appeal No. : R.A. No. 229 of 2011, O.A. No.1343 of 2007 & M.A. Nos. 2556 of 2011, 3201 of 2011

Appellant : S.P. Singh

Respondent : Raghubir Singh and Others

Advocate for Pet/Ap. : For the Applicant: ----- For the Respondents: R1, S.K. Gupta, A.K. Behera with Sridhar Nayak, Rajender Singh, Advocates, R3, None.

Judgement :

ORAL:

MRS. MEERA CHHIBBER, MEMBER (J)

1. This review application has been filed by one Shri S.P. Singh on the ground that in para 7 of the judgment dated 02.06.2011, it has been mentioned that though service was complete on the private respondents but they opted not to contest the

case, which according to the review applicant is an error apparent on the face of the record because he had already filed written submissions in the case. He has further stated that before deciding the case of Shri Raghubir Singh, seniority of Shri S.P. Singh should have been decided qua one Shri Gautam Ray at the level of Deputy Registrar.

2. Respondents, original applicant as well as official respondent, i.e. respondent No.3, have opposed this review application on the ground that Shri S.P. Singh had already raised the issue of his seniority qua Shri Gautam Ray by filing original application No. 53/2003 before Guwahati Bench of the Central Administrative Tribunal. However, the said OA was dismissed on 04.10.2004. The Writ Petition No.1262/2005 filed by Shri S.P. Singh before the Hon'ble Gauhati High Court against judgment passed by the Guwahati Bench of the Tribunal on 04.10.2004 in OA 53/2003 was also dismissed for non-prosecution on 27.09.2011. In any case if Shri S.P. Singh has any grievance with regard to his seniority qua Shri Gautam Ray, that is a separate issue and he cannot raise the said issue in the OA filed by the applicant herein because he has not pointed out any other error apparent on the face of record in the judgment dated 02.06.2011 except in para 7, as mentioned above, therefore, the RA may be dismissed.

3. In rejoinder Shri S.P. Singh has stated that his case was not dismissed but liberty was given to him to agitate the same question at the appropriate stage, therefore, it is wrong to state that his OA was dismissed.

4. Review Applicant has also sent a letter stating therein that he would not be able to appear in the court, therefore, the case may be decided on the basis of written submissions.

5. We have gone through the review application filed by Shri S.P. Singh and heard counsel for the original applicant as well as counsel for the respondent No.3. The only point which has some substance in the RA, is the last sentence in para 7 of judgment dated 02.06.2011 wherein it was noted as follows:

“Though other officers who were likely to be affected were impleaded as private respondents, were served but they opted not to contest the case”.

6. From the review application filed by Shri S.P. Singh, we note that initially he had been corresponding with the Registrar of the Central Administrative Tribunal, Principal Bench, New Delhi, but subsequently he had filed his written submissions in the Tribunal. On perusal of the file we find Shri S.P. Singh had indeed filed written submissions, therefore, the above sentence from para 7 of the judgment dated 02.06.2011 be treated as deleted.

7. Perusal of the written submissions filed by Shri S.P. Singh show that basically he had raised issue of his seniority qua one Shri Gautam Ray at the level of Deputy Registrar and he wanted the court to settle that issue first before deciding the case of the applicant Shri Raghubir Singh in this case. We would agree with the applicant that in case Review Applicant has any grievance with regard to his seniority qua a third person he has to seek redressal of same in his own right and cannot rake up that issue in someone else's case. It is relevant to note that the Review Applicant had already raised this issue before the Guwahati Bench of the CAT by filing Original Application No. 53/2003. The said OA was disposed of on 04.10.2004 by observing as follows:

“According to the respondent, the date of regularization in view of the judgment of the Hon'ble High Court is 01.12.1993. In our opinion as a normal rule the judicial propriety also demands that clarification in respect of a Judgment be sought from the court passing the Judgment. The applicant instead of approaching the Hon'ble High Court for clarification preferred to initiate Contempt proceedings and thereafter followed the same by making representations, filing of application before the Tribunal, further representation and as such he is to be blamed for the situation in which he is today. Admittedly, no direction can be given as sought by the applicant to promote him to the post of Joint Registrar/Registrar. The only direction which can be issued is consideration for promotion to the post of Joint Registrar/Registrar. The applicant states in para 32 that the applicant was appointed Deputy Registrar in the month of September, 1990 and on completion of two years, he was entitled to be promoted as Joint Registrar along with the similarly situated persons with effect from the year 1991. Prima facie, the claim of the applicant as made in para 32 of the application is not tenable in view of the Recruitment Rules for the post of Joint Registrar since minimum experience of 5

years regular service as Deputy Registrar is required out of which at least two years has to be in the Tribunal. Likewise for the post of Registrar 5 years regular service as Joint Registrar is required of which at least two years has to be in the Tribunal failing which Deputy Registrar with 10 years regular service in the grade of which at least 2 years shall be in Tribunal. Be that as it may, the question of eligibility for the said post would depend upon the date of regularization in the post of Deputy Registrar and the applicant is free to agitate the same question at the appropriate state after the clarification as stated above. We, therefore, leave open the other reliefs sought by the applicant. The application is disposed of in aforesaid terms with no order as to costs.”

8. Perusal of the above shows that liberty was given to the applicant to agitate the issue raised by him in appropriate proceedings, therefore, he should have utilized the liberty given to him by filing appropriate proceedings. It is further relevant to note that the judgment of Tribunal was challenged by the applicant by filing Writ Petition No.1262/2005 before the Hon'ble Gauhati High Court. Respondents have annexed order dated 27.09.2011 of the Hon'ble Gauhati High Court (page 53) to demonstrate that the said Writ Petition was also dismissed for non-prosecution, meaning thereby that the liberty was available to the applicant but that could have been utilized by approaching the court in his own right. He cannot claim seniority over a 3rd person in a petition filed by Shri Raghbir Singh as he has not pointed out any grievance against the relief claimed by the applicant, Shri Raghbir Singh, in the present OA. In any case, the OA filed by Shri Raghbir Singh has been decided on a principle of law on the basis of judgment given by the Hon'ble Supreme Court in the case of Shri M. Ramachandran Vs. Govind Ballabh reported in JT 1999 (7) SC 271, therefore, on merits it calls for no interference. Review applicant has not been able to point out any error apparent on the face of record either on facts or in law in the review application except the clarification as given in para 5 above. In view of above, with the clarification in para 7 of the judgment as mentioned in para 6 above, this RA is dismissed.

9. Official respondent, i.e. respondent No.3, have filed MA 2556/2011 seeking extension of time for complying with the directions given in judgment dated 02.06.2011 by 6 months on the ground that they were willing to comply with the

directions but in the meantime this RA was filed. Now that RA has been disposed of, they may be given 6 months time from today.

10. Since notice was issued in the RA naturally the official respondents deemed it proper to await the result of RA. Now that RA has been disposed of with clarification in para 8, we grant 3 months time to the respondent No.3 from the date of receipt of a copy of this order to comply with the directions given in the judgment dated 02.06.2011. MA stands disposed of.

11. In view of the final orders passed in the RA, MA 3201/2011 also stands disposed of.

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