

(2019) 05 CAT CK 0025

In the Central Administrative Tribunal

Case No : Original Application No. 1350 Of 2019

Ashok Kumar Singh

APPELLANT

Vs

Union Of India through Secretary

RESPONDENT

Date of Decision : 01-05-2019

Acts Referred:

Citation : (2019) 05 CAT CK 0025

Hon'ble Judges : L. Narasimha Reddy, J;Aradhana Johri, J

Bench : Division Bench

Advocate : Rajesh Kumar, Trilok Singh, Subhash Gosain

Final Decision : Dismissed

Judgement

L. Narasimha Reddy, J

1. For all practical purposes, the applicant has taken not only his employer but also the Tribunal and the Hon'ble Delhi High Court for a ride with inconsistent, frivolous and baseless claims by instituting numerous proceedings. It all started with his claim that the recommendations of 6th Pay Commission contained in paragraph No.3.4.7, be implemented. He filed OA No.836/2015 for that purpose. The OA was dismissed through an Order dated 03.06.2016. That was followed by a Review Application No.173/206, which was rejected on 24.08.2016.

2. Aggrieved by the Order passed by the Tribunal in the OA No.836/2015, the applicant filed Writ Petition (C) No.3522/2018 before the Delhi High Court. However, in the Writ Petition, he pleaded that he did not have any grievance regarding the implementation of the recommendations of the 6th Pay Commission but his grievance is only regarding cadre review of ITS officers finalized and published on 28.02.2017. The Writ Petition was disposed of on 11.04.2018 leaving it open to the applicant to pursue the remedies by instituting separate proceedings before the Tribunal.

3. The applicant filed OA No.3071/208. However, in the OA he claimed same

relief as he did in OA No.836/2015. Taking note of the same, that OA was dismissed on 16.08.2018. Thereafter, the applicant filed CM No.38899/18 in Writ Petition(C) No.3522/2018. This time his grievance was about the restructuring of the cadre. In its order dated 24.09.2018, the Hon'ble High Court took note of the Order passed in OA No.3071/2018. Thereafter, an interim direction was issued directing the respondents to pass order on the representation submitted by the applicant. CM No.38899/18 in Writ Petition(C) No.3522/2018 was disposed of taking note of the fact that the respondents passed Order dated 22.04.2018, rejecting the claim of the applicant. The same was reiterated in Order dated 11.01.2019. Those two orders are challenged in this OA.

4. Heard Shri Rajesh Kumar, learned counsel for the applicant and Shri Trilok Singh for Shri Subhash Gosain, learned counsel for the respondents, at the stage of admission itself.

5. A perusal of the representation dated 02.05.2018, submitted by the applicant, discloses that he made following prayers:-

"i. 6th Pay Commission may be implemented for undersigned. Since as per recommendation, JTO is feeder cadre for promotion to JTS of ITS group A and as undersigned had already been promoted from JTO to the next higher grade and hence undersigned may be upgraded to JTS of ITS group A with effect of 1st Jan 2006 along with all consequential benefits.

ii. Regularisation of promotion in the grade of STS Group-A since 31.01.2011."

6. Despite the fact that the relief for implementation of the recommendations of 6th Pay Commission was rejected and though he stated more than once that he does not intend to press that prayer, he incorporated that very plea in the representation. The second relief is about the promotion from JTS of ITS Group ? A?. The third was about regularisation in the grade of STS. Nowhere, the question of restructuring has been pleaded.

7. In case the applicant has any grievance vis-a-vis the so called regularisation or promotion, he was required to plead the same in the earlier OAs. Since he did not plead that, the plea is virtually barred by application of the principle of constructive res judicata.

8. Even otherwise, in the Order dated 11.01.2019, the structure of the organisation was clearly depicted in the table and it was observed that the plea of the applicant that he be promoted from the level of JTO to that of JTS of ITS Group ?A?, without passing through intermediate stages, cannot be acceded to. The applicant is not able to point out as to how his promotion in that form can be made.

9. More than once the respondents informed the applicant that the promotions are governed by the Recruitment Rules and that the plea does not accord with the rules. Despite that, the applicant is indulging in frivolous litigation.

10. We, therefore, dismiss the OA. Though we proposed to impose costs so that the applicant does not harass the courts and the department hereafter, learned counsel for the applicant made a request that the applicant be spared this time. We make it clear that if the applicant indulges in such litigations in future, heavy costs would be imposed.