
(2018) 01 DEL CK 0421

In the Delhi High Court

Case No : Civil Writ Petition No. 6982 Of 2017, Civil Miscellaneous No. 28975 Of 2017

B K Basavaraju

APPELLANT

Vs

Union Of India And Ors

RESPONDENT

Date of Decision : 18-01-2018

Acts Referred:

Citation : (2018) 01 DEL CK 0421

Hon'ble Judges : Hima Kohli, J; Rekha Palli, J

Bench : Division Bench

Advocate : M.K.Bhardwaj, Saroj Bidawat, Arun Bhardwaj

Final Decision : Disposed Of

Judgement

1. The petitioner is aggrieved by the order dated 15.03.2017, passed by the Central Administrative Tribunal, dismissing a Miscellaneous Application (M.A. No.2514/2014) filed by him for impleadment in an Original Application (OA No.728/2013), filed by Ms.Kiran, the respondent No.4 herein.

2. By the impugned order, the Tribunal dismissed the impleadment application filed by the petitioner and contemporaneously, allowed the OA of the respondent No.4 by quashing and setting aside an order dated 22.02.2013, passed by the respondent No.3/CCIM, reverting her from the post of Office Superintendent to Junior Stenographer.

3. Mr.M.K.Bhardwaj, learned counsel for the petitioner submits that much before the respondent No.4 had filed OA No.728/2013, his client had filed OA No.95/2012 before the Tribunal, laying a challenge therein to the promotion order passed by the respondent No.3/CCIM promoting respondent No.4 to the post of Office Superintendent. After the said OA was allowed by the Tribunal vide order dated 28.02.2014, the respondent No.4 had filed RA No.67/2014 alleging inter alia that the Tribunal had erred in passing the said order without directing her impleadment in the said case. Vide order dated 18.07.2014, the said

application was allowed by the Tribunal and it was directed that the petitioner's OA No.95/2012 be re-listed for fresh adjudication. Admittedly, the petitioner did not pursue the said OA which came to be dismissed in default on 16.12.2016.

4. Learned counsel for the petitioner states that well before the date the petitioner's OA came to be dismissed by the Tribunal, the respondent No.3/CCIM had passed an order dated 22.02.2013, reverting the respondent No.4 from the post of Office Superintendent to Junior Stenographer. He argues that even if the said OA would have been revived for fresh hearing, it had outlived its life, having been rendered infructuous in view of the aforesaid order, reverting the respondent No.4. It is stated that just as the respondent No.4 had raised a grievance before the Tribunal in the OA filed by the petitioner that she was a necessary and proper party and ought to have been impleaded by the petitioner before a decision could have been taken on merits, a similar duty was cast on the respondent No.4 when she had filed OA No.728/2013 challenging her reversion order, but she failed to implead the petitioner as a co-respondent. Instead, when the petitioner approached the Tribunal by filing an application for impleadment, the same has been erroneously dismissed by the Tribunal.

5. Mr.Arun Bhardwaj, learned counsel for the respondent Nos.2 to 4 does not deny the fact that the petitioner had not been impleaded by the respondent No.4 in OA no.728/2013.

6. We are of the opinion that the petitioner ought to have been impleaded by the respondent No.4 in OA No.728/2013, as he is not only a necessary party, but a proper party in the said proceedings. Only after hearing the petitioner on merits, should the Tribunal have proceeded to decide the case. The impugned order having been passed behind his back, has deprived the petitioner of an opportunity to put forth his stand.

7. In view of the aforesaid position, we deem it appropriate to quash and set aside the order dated 15.03.2017, passed by the Tribunal, dismissing the impleadment application filed by the petitioner and allowing the OA filed by the respondent No.4. OA No.728/2013 is accordingly restored to its original position and the matter is remanded back to the Tribunal for a re-hearing. After the respondent No.4 files an amended memo of parties, impleading the petitioner therein as a co-respondent, the petitioner shall be afforded an opportunity to file his counter affidavit before the Tribunal. Once the pleadings are complete in the petition, the OA shall be placed before the Tribunal for a hearing.

8. The petition stands disposed of, along with pending application. The parties shall appear before the Registrar on 20.02.2018, for further proceedings.