

(2000) 06 CAL CK 0008

Calcutta High Court

Case No: W.P.C.T. No. 517 of 1999

Uday Chandra

APPELLANT

Vs

Union of India and Others

RESPONDENT

Date of Decision: June 8, 2000

Acts Referred:

- Administrative Tribunals Act, 1985 - Section 22(3)
- Constitution of India, 1950 - Article 21

Citation: 105 CWN 897

Hon'ble Judges: Satyabrata Sinha, J; Hrishikesh Banerji, J

Bench: Division Bench

Advocate: S. C. Bose and Biswarup Mukherjee, for the Appellant; U. K. Majumder, for the Respondent

Judgement

Satyabrata Sinha, J.

All these writ applications involving common questions of law and fact were taken up for hearing together and are being disposed of by this common judgement. These writ petitions are directed against the orders dated 27.3.98 passed by a Bench of the Central Administrative Tribunal, whereby and whereunder the applications filled by the petitioners herein were dismissed.

2. The short question which had arisen for consideration was as to whether the petitioners herein had preferred any appeal so as to obtain the benefit of the judgment of the Apex Court in [Union of India \(UOI\) and Others Vs. R. Reddappa and Another](#). It appears that the petitioners had filed writ applications before this court. The said writ petitions were dismissed. Appeal was taken there against wherein an order was passed to prefer appeal before the appellate authority. The petitioners allegedly had preferred appeals, but as no relief had been granted, they approached the Central Administrative Tribunal. The Central Administrative Tribunal by an order dated 3.1.95 dismissed the said applications stating : "We have given our anxious

consideration to the submissions made by both the parties. We have also carefully gone through the judgement of the Supreme Court in [Union of India \(UOI\) and Others Vs. R. Reddappa and Another](#), . We are of the view that on carefully perusing the above judgement, we are unable to find that the cases of the applicants come within any of the five types of cases, which have been considered by the Supreme Court and the relief has been granted in respect of those cases only except the last... (sick) employees against those who did not approach the court the Government has taken the decision to re-employ them. We are of the considered view that the order of removal passed against the applicant had attained a finality in view of the facts disclosed in each of the cases and we are, therefore, unable to grant the applicants relief of re-instatement in terms of the judgment passed by the Supreme Court in Redappa's Case (supra)."

3. As against the said order, special leave applications had been filed which were allowed being Civil Appeal Nos. 1950 to 1961 of 1997 which were registered upon grant of Special Leave by the Supreme Court of India. By an order dated 14.3.97 a Bench of the Apex Court directed: "It was the case of the respondents before the Tribunal that none of the appellants had filed appeals. The Tribunal proceeded to consider whether the judgement of this court in the case of [Union of India \(UOI\) and Others Vs. R. Reddappa and Another](#), , applied to the appellants regardless of whether or not they had filed such appeals. It is clear, particularly from paragraph 7 of the judgement in R. Reddappa's case, that the ratio therein would apply to those cases where the claim of the petitioners have been dismissed because the appeals filed had already been dismissed. To get the benefit of the judgement in R Reddappa's case, therefore, the appellants must be such persons whose claim petitions had been dismissed because the appeals filed had already been dismissed and this is a matter which will require an investigation of facts. The appeals are, accordingly, allowed and the order under appeal is set aside. The various original applications (O.A. Nos. 248 to 254 of 1994. 265 to 267 of 1994 and 269-270 of 1994) shall be restored to the file of the Central Administrative Tribunal, Calcutta, for being considered afresh, having regard to the observations made above and the decision of this court aforementioned.'"

4. Pursuant thereto, the matter had been heard and the learned Tribunal upon taking into consideration the cases of the parties, inter alia, held that only two applicants, namely, Joy Deb Sharma and Sudhir Ranjan Karmakar, being applicants in O. A. 260 of 1994 and 267 of 1994 had preferred claims by filing appeals and accordingly they are entitled to get benefit of the judgement. However, in respect of others, the learned Tribunal, inter alia, considered the merit of the matter and having arrived at a finding that there were discrepancies in respect of date of filing of appeals and date of filing applications before the authorities and the said words being not synonymous, they are not entitled to any relief. Before us, in paragraph 11 and in other paragraphs of the writ application the petitioners had stated the details as to the dates of filing of the appeals as also the receipts.

5. Mr. Bose, learned senior counsel appearing on behalf of the petitioners by way of example had drawn our attention to a representation by way of appeal by Uday Chandra dated 18.1.96 and in this connection had also drawn our attention to a receipt of the application dated 28.1.86, which is at page 128 of the application.

6. By an order dated 19/4/2000, the respondents herein were directed to file an affidavit in opposition within 2 weeks, but no such affidavit has been filed. Mr. Majumdar, appearing on behalf of the respondents on instruction states, that the records show that no such appeal or the application had been filed and the receipts of Supreme Court produced before this court are forged. The learned Tribunal has not gone into the aforementioned question. In terms of the provisions of the Administrative Tribunals Act, Tribunal being a fact finding authority has got all the powers of the civil court in relation to matters specified therein and thus, for the purpose of arriving at a decision as to whether the petitioners who have since retired or are about to retire and whose services had been terminated summarily in terms of Rule 14(ii) of the Railway Servants (Disciplinary and Appeal) Rules, 1968, should be given the benefit of the judgement of the Apex Court in R. Reddappa (supra), the same should require serious consideration at "the hands of the learned Tribunal, in as much as, thereby they are deprived from their right of livelihood which is their fundamental rights in terms of Article 21 of the Constitution of India.

7. For the reasons aforementioned, we set aside the order passed by the Central Administrative Tribunal dated 27.3.98 and remit the matter back to the learned Tribunal for consideration as regards the question as to whether appeals have been filed by the petitioners, or not and further as to whether receipts which have been produced before this court are genuine or not. There cannot be any doubt that for the aforementioned purpose it will be open to the learned Tribunal to exercise its powers conferred upon it under Code of Civil Procedure, as has been provided in terms of Section 22(3) of the Administrative Tribunals Act and take oral evidence also, if necessary. We would, having regard to the fact that the matter is pending for a long time, observe that the learned Tribunal should consider the desirability of disposing of the matters as expeditiously as possible.

8. Xerox certified copy of the order be supplied on priority basis.

Hrishikesh Banerjee.

I agree.