

\$~23.

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ W.P.(C) 46/2016

% *Judgment dated 8th January, 2016*

UNION OF INDIA & ORS Petitioners
Through : Mr.Arun Bhandari and Ms.Kanika
Bansal, Advs.

versus

ALL INDIA NIC S&T OFFICERS
ASSOCIATION & ANR Respondents
Through : Mr.R.K. Kapoor and Ms.Sai Jyotsna,
Advs.

CORAM:

HON'BLE MR. JUSTICE G.S.SISTANI

HON'BLE MS. JUSTICE SANGITA DHINGRA SEHGAL

G.S.SISTANI, J (ORAL)

1. Challenge in this writ petition is to the order dated 25.5.2015 passed by Central Administrative Tribunal (hereinafter referred to as the '*Tribunal*') in O.A.No.1936/2015 whereby the petitioners herein were directed to examine the case of the respondents in the light of the order passed by the Tribunal in O.A.No.1111/2012 and if their cases are covered by the same, the respondents herein would be granted the same benefits.
2. Learned counsel for the petitioner submits that the learned Tribunal has passed the impugned order dated 25.5.2015 without issuing notice to the petitioners herein thereby depriving them the right to file counter affidavit explaining the facts of this case and the cases decided earlier. Counsel further submits that the Tribunal has disposed of the O.A. 1936/2015 on the presumption that the case is fully covered by the earlier decision rendered in the case of O.A.No.1111/2012.

3. Mr.Kapoor, Advocate, enters appearance on an advance copy and while relying upon para 4 of the impugned order dated 25.5.2015 submits that while passing the impugned order the Tribunal has simply directed the petitioners to examine the case of the respondents herein and in case their cases are covered by the order passed by the Tribunal, they should be granted the same benefit.
4. We have heard learned counsel for the parties and also examined the impugned order dated 25.5.2015.
5. In the case of **G. Simhagiri v. Govt. of A.P.**, reported at 2007 (5) ALD 171, the High Court of Andhra Pradesh has observed as under:

“37. *The contention that the order of the Tribunal did not decide the rights of parties does not necessitate detailed examination. The power and duty of the High Court under Article 226/227 of the Constitution of India is essentially to ensure that Courts and Tribunals, inferior to it, have done what they are required to do in law. The High Court would, ordinarily, interfere in cases where the subordinate Courts or Tribunals have acted contrary to law, erroneously assumed or have acted beyond their jurisdiction or where the orders have resulted in manifest injustice. Achutananda Baidya v. Prafulla Kumar Gayan ; State of A.P. v. Hanumantha Rao. In the present case the Tribunal has acted contrary to the provisions of the Administrative Tribunals Act and the rules made thereunder in allowing the O.As at the admission stage without notice to the respondents and without giving them an opportunity of submitting their reply to the application and of being heard thereafter.*”

6. Also, in the case of **Union of India & Anr. v. K.K. Dawar & Anr.**, [W.P.(C).1802/2013] decided on 22.03.2013, wherein another Division Bench of this Court has observed as under:

“1. We have repeatedly cautioned the Members of the Central Administrative Tribunal not to dispose of Original Applications without notice to the respondents. Such kind of decisions, without notice to the respondents, disposing of Original Applications on the very first day of listing, create problems for the department in the form of stale claims resuscitating. We are noticing that the so-called innocuous directions issued by the Tribunal that either the Original Application be treated as a representation and a reasoned decision taken, or a direction that the representations already made, be decided with reasons, gives birth to an ostensible fresh cause of action. At the second stage litigation, after claims are denied, the Tribunal is unable to decipher as to when would the cause of action accrue. Very conveniently, Benches of the Tribunal, do not even deal with the issue of limitation, resulting in unnecessary further litigation being created in the High Courts. Instant case highlights one such problematic manner in which the Tribunal disposed of an Original Application and at the second stage, very conveniently ignored to deal with the issue of limitation.

.....

22. *We direct that a copy of this decision be sent to the Registrar of the Central Administrative Tribunal who shall circulate the same to all Members of the Tribunal, and it is hoped and expected that in future, no Bench of the Central Administrative Tribunal disposes of Original Application without notice to the respondents.*

23. *Howsoever strong a case may appear to be, no adjudicatory system can countenance a matter to be disposed of without even putting a notice to opposite party. This is the minimum requirement of principle of natural justice, and who else other than Central Administrative Tribunal would be bound to observe the same for the reason, except in cases of idle formalities; violation of a principle of natural justice is treated as an injury by itself not requiring any further injury to be shown or to be proved.”*

7. A perusal of the impugned order shows that the order was passed by the Tribunal simply after considering that the case of the respondents herein

is squarely covered by the earlier decision rendered by the Tribunal in O.A.No.1111/2012 on 27.9.2013 and in fact no notice was issued to the petitioners herein and deprived them of an opportunity to submit their reply and of being heard.

8. Having regard to the submissions made and in view of the law laid down in the cases of ***G. Simhagiri*** (supra) and ***Union of India & Anr. v. K.K. Dawar & Anr.***(supra), present writ petition is allowed. The impugned order dated 25.5.2015 is quashed and the matter is remanded back to the Tribunal for fresh hearing. List this matter before the Tribunal on 18.1.2016.
9. Petition stands disposed of.

G.S.SISTANI, J

SANGITA DHINGRA SEHGAL, J

JANUARY 08, 2016

msr