

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 2170 OF 2021**

Badal Kumar Barik

...Petitioner

Versus

The Administrator,
Union Territory of Dadra Nagar Haveli,
Daman & Diu, Silvassa & Ors.

...Respondents

.....

Mr. Ramesh Ramamurthy for the Petitioner.

Mr. Hiten S. Venegaonkar for the Respondents.

.....

**CORAM: DIPANKAR DATTA, CJ &
 V.G. BISHT, J.**

DATE: January 31, 2022

PC:-

1. This writ petition is directed against the order dated 6th February, 2019 passed by the Central Administrative Tribunal, Mumbai Bench, Mumbai (hereafter “the Tribunal”, for short) on Original Application No. 569 of 2015. It is at the instance of the original applicant.

2. Referring to paragraphs 5 and 6 of the order, Mr. Venegaonkar, learned counsel for the respondent contends that this writ petition is not maintainable.

3. We have perused paragraphs 5 and 6 of the order. In paragraph no. 5, the statement of Mr. Ramamurthy, learned counsel who appeared for the original applicant is recorded to the effect that the applicant would be satisfied if a direction is given to the respondents to consider and take a decision on the pending representations dated 28th July, 2014 and 7th October, 2014 in accordance with the rules within such time as stipulated by the Tribunal. The prayer was not opposed by the learned counsel for the respondents.

4. The Tribunal thereafter recorded in paragraph no. 6 that in view of such submission of Mr. Ramamurthy, the original application was being disposed of without entering into the merits of the case directing the respondents to consider and decide the representations.

5. Our attention has been drawn to an order dated 7th September, 2021 passed by the Deputy Secretary (Health), Union Territory of Dadra & Nagar Haveli and Daman & Diu whereby the representations dated 28th July, 2014 and 7th

October, 2014 of the original applicant have been rejected.

6. Mr. Venegaonkar is right that the order dated 6th February, 2019 having been passed by the Tribunal on the invitation of Mr. Ramamurthy, the same is not open to challenge. Also, with the rejection of the aforesaid representations by the order dated 7th September, 2021, we find substance in the submission of Mr. Venegaonkar that the petitioner has a fresh cause of action to move the Tribunal seeking redress of his grievance.

7. Although, Mr. Ramamurthy has contended that the petitioner has retired long back and has not been paid any terminal benefits for which he had moved this Court challenging the order dated 6th February, 2019, we are of the considered opinion that the provisions of law cannot be put aside on grounds of sympathy. The inconvenience and the difficulties that the petitioner might have been facing since his retirement notwithstanding, his remedy lies before the Tribunal and not before this Court at this stage.

8. This writ petition stands disposed of granting liberty to the petitioner to approach the appropriate forum in accordance with law seeking redress of his grievance.

(V.G. BISHT, J.)

(CHIEF JUSTICE)