

15.03.2023

WPCT 8 of 2023

Court : 04
Item : 37
Matter : WPCT
Status : DO
Bench ID : 266048
Transcriber: NANDY

Sankar Kumar Das
Vs.
Union of India & Ors.

Mr. S.K. Datta, Advocate

Mr. Barun Chatterjee, Advocate

.....for the Petitioner

Mr. Ranjan Kumar Sinha, Advocate

.....for the Respondent

At the very outset we must record that the impugned order dated 09.12.2022 passed by the Central Administrative Tribunal is bereft of any reason. Even apart the said order is ambiguous in nature for the simple reason that the relief has been granted *de hors* the prayer made in the application.

The tribunal application which was registered as OA 1174 of 2019 was disposed of on merit in presence of the parties on 02.09.2019. Subsequent thereto, two applications being MA 889 of 2019 and 890 of 2019 were taken out by the respondent herein in the said disposed of matter. The aforesaid two applications are not annexed to the instant writ-petition as according to the learned Advocate for the petitioner, the same has not been served upon his client till date.

Be that as it may, it appears that the aforesaid two applications were listed on 08.04.2022 and were disposed of without any order. In fact, the aforesaid two applications appear to be dismissed for default as the Tribunal declined to return any finding on merit. The aforesaid order dated 08.04.2022 would reveal that the aforesaid two miscellaneous applications were taken out for modification of an order dated

02.09.2019 upon condonation of delay. Subsequently, the application for recalling the said order dated 08.04.2022 was taken out along with an application for condonation of delay at the instance of the respondent.

The moment the application for modification of an order in a disposed of proceeding is taken out, it does not tantamount to revival of the original proceeding but the consideration is restricted to the point whether the order disposing of the original proceeding needs to be modified. Furthermore, upon dismissal of the aforesaid application, the subsequent application for restoration of the aforesaid application, even if granted, does not automatically and/or *ipso facto* revived or restored, the original application.

The original proceeding stood disposed of on 02.09.2019. The order should be restricted to restoration of the aforesaid to miscellaneous applications and cannot be extended to mean for restoration of the original proceeding. The respondent did not pray for recall of the order dated 02.09.2019 and, therefore, the restoration of original proceeding would imply that the said order has been recalled and the original proceeding is restored to its file for final adjudication again. The aforesaid course in our view is impermissible as the Court cannot pass such an order which the parties do not intend nor can *suo motu* recall its order after the same is transcribed and signed by the Judge or the Member of the Tribunal.

In an adversarial system of adjudication, disclosure of reason is a hallmark and any infraction

thereof would entail the order liable to be quashed. The reason being the heart and soul of any order, cannot be used as an abstract theory or for formal adjudication. The importance of providing the reason can be seen that the litigant has a right to know the reason for an order to be passed in his favour or against him.

Since the order impugned is bereft of reasons, cannot be permitted to occupy the space in the judicial paper and, therefore, the same is hereby set aside.

The Tribunal is directed to reconsider the applications being MA 524 of 2022 and MA 525 of 2022 after affording an opportunity of hearing to the respective parties and by recording proper reasons, in accordance with law.

With these observations, the writ-petition being **WPCT 8 of 2023** is **disposed of**. No order as to costs.

(Harish Tandon, J.)

(Prasenjit Biswas, J.)

