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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO.15715 OF 2023

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Vishwavijay Tukaram Gore

... Petitioner

V/s.

The Union of India,
Through The Secretary, Ministry of
Communication and Information
Technology, Department of Post,
DakBhawan & Ors.

... Respondents

Mr. A. K. Singh for the petitioner.

**CORAM : DEVENDRA KUMAR UPADHYAYA, CJ &
AMIT BORKAR, J.**

DATED : SEPTEMBER 18, 2024

P.C.:

- 1.** Heard the learned counsel for the petitioner and perused the records available before us on this writ petition.
- 2.** The petitioner who is a central government employee working in the Post and Telegraph Department has filed this writ petition under Article 226 of the Constitution of India with the following prayers:

"a) To issue a writ/order/direction in the nature of an

appropriate writ/order/direction to respondent No.2 to treat entire period 20.05.2016 to 07.06.2019 as compulsory waiting and duty period for all practical purposes with all consequential, monetary benefits with penal interest 18%, within Two Weeks of the date of order by this Hon'ble Court.

b) To give petitioner all benefits as per Hon. Director (SPN) Department of Posts, New Delhi. 60-9/2010-SPB-I dated 10 November 2010, consider date of joining 25.02.2011 for all practical purposes with consequential monetary benefits with 18% penal interest.

c) To give increment after completion of punishment from January 2016 with 18% penal interest.

d) To continue Postal Life Insurance without default, which monthly premium was automatically deducted from salary, salary was illegally, unlawfully stopped from May 2016.

e) To give 10 year MACP premium with all benefits with penal interest 18%, which was denied stated that period of unauthorized absence from 20.05.2016 to 07.06.2019 is yet not decided.

f) To give seniority as per merit list declared by the department of Posts dated 16.11.2010.

g) To give Rs.200/- with penal interest, which was illegally taken for as demand draft for verification of HSC mark sheet verification.

h) To grant any ad interim reliefs in the aforementioned terms; and

i) Cost of this petition and incidentals may also be provided in favour of the petitioner.

j) For such further & other relief, orders and directions as this Hon'ble Court may deem fit and proper in the aforesaid circumstances of the case."

3. For the reasons which are being summarized below, this petition would not be maintainable as for the prayers made in the petition, the petitioner ought to have approached the

Central Administrative Tribunal by invoking its jurisdiction under the relevant provisions of the Administrative Tribunals Act, 1985. The reasons why the writ petition would not be maintainable are as follows:

4. The petitioner vide an order dated 19 May 2016 was transferred from Malshiras (Pandharpur Division) to Sironcha (Chandrapur Division). However, he challenged the said order of transfer dated 19 May 2016 by filing Original Application No.431 of 2016 before the Central Administrative Tribunal, Mumbai Bench, Mumbai. In Original Application No.431 of 2016, the Central Administrative Tribunal on 9 June 2016 passed an interim order staying the order of transfer dated 19 May 2016. However, the said original application was finally disposed of by the Central Administrative Tribunal by means of judgment and order dated 14 February 2019. The Central Administrative Tribunal disposed of Original Application No.431 of 2016 with a direction to the respondent-authorities to decide the representation dated 20 May 2016, said to have been filed by the petitioner against the transfer order dated 19 May 2016.

5. By the said order dated 14 February 2019, the Central

Administrative Tribunal also disposed of the miscellaneous application filed by the respondents seeking vacation of the interim order dated 9 June 2016. The contempt petition filed by the petitioner for alleged willful violation of the interim order dated 9 June 2016 passed by the Tribunal was also disposed of.

6. As observed above, the original application itself was disposed of finally with a direction to the respondents to consider the representation dated 20 May 2016 made by the petitioner against the order of transfer dated 19 May 2016.

7. The judgment and order dated 14 February 2019, passed by the Central Administrative Tribunal, was challenged by the petitioner before this Court by filing Writ Petition No.4331 of 2019, which too was disposed of by a Co-ordinate Bench of this Court by means of order dated 11 July 2019, wherein direction was issued to the respondents to comply with the direction of the Tribunal contained in its judgment dated 14 February 2019. Thus, so far as the challenge to the transfer order dated 9 May 2016 is concerned, finally no interference was made either by the Tribunal or by this Court; keeping it open to the respondent- authorities to consider and

decide the representation said to have been made by the petitioner against the said transfer order.

8. Learned counsel for the petitioner stated that pursuant to the order dated 3 April 2019 of this Court in Writ Petition No.4331 of 2019, an order was passed by the Superintendent of Post Offices (Pandharpur Division) on 7 June 2019 posting the petitioner at Malshiras S.O. under Pandharpur Division from Sironcha S.O. under Chandrapur Division. It is further stated that pursuant to the order dated 7 June 2019 the petitioner submitted his joining at Pandharpur Division and since then he is working there.

9. The petitioner, thereafter, is said to have made certain representations and demands for treating the period from 20 May 2016 to 7 June 2019 as compulsory waiting and duty period with all consequential monetary benefits with penal interest etc. The petitioner also demanded that he be provided the benefits in terms of the circular dated 10 November 2010 and be also given increments etc. along with various other benefits.

10. For the said alleged grievance, the instant writ petition has been filed by the petitioner without invoking the

jurisdiction of the Central Administrative Tribunal, which is not permissible in view of the law laid down by the Hon'ble Supreme Court in the case of ***L. Chandra Kumar vs. Union of India And Others***, reported in 1997 (3) SCC 261. In the said judgment the Hon'ble Supreme Court has clearly laid down that any central government employee has to first invoke the jurisdiction of the Central Administrative Tribunal as a Court of first instance and accordingly on account of availability of remedy to the petitioner before the Central Administrative Tribunal, we find that this petition is not maintainable.

11. The writ petition is, thus, dismissed. Costs made easy.

12. However, notwithstanding dismissal of this writ petition it will always be open to the petitioner to take recourse to any other remedy which may be legally available to him, including the remedy of invoking jurisdiction of Central Administrative Tribunal under the relevant provisions of the Administrative Tribunals Act.

(AMIT BORKAR, J.)

(CHIEF JUSTICE)