

D.

SLP(C)No. 11566-11568 OF 2003

ITEM No.205

Court No.10

SECTION XIV

A/N MATTER

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Petition(s) for Special Leave to Appeal (Civil) No.11566-11568/2003

(From the judgement and order dated 13/02/2002 in LPA 564/99
of The HIGH COURT OF DELHI AT N. DELHI)

P.D. BHATNAGAR

Petitioner (s)

VERSUS

UNION OF INDIA & ORS.

Respondent (s)

(With Appln(s). for c/delay in filing SLP,with prayer for interim relief)

(For Final Disposal)

Date : 19/11/2004 These Petitions were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE ASHOK BHAN

HON'BLE DR. JUSTICE AR. LAKSHMANAN

For Petitioner (s)Mr.R.K.Jain,Sr.Adv.,
Mr.S.C. Paul,Mr.R.K. Varshneya,
Mr.Manoj Kulsureshtha,Ms.Sonal Mahajan,
Mr. Shiv Prakash Pandey,Advs.

For Respondent (s)Mr.R.K. Singh,Adv.,
Mrs.Deepa Rai,Mr. K.V.Mohan,Advs.

Mr.Manoj Swarup,Adv.,
Ms.Lalita Kohli,Mr.Anubhav Kumar,
Ms.Prachi,for M/s Manoj Swarup & Co.

UPON hearing counsel the Court made the following

O R D E R

Delay condoned.

Leave granted.

The appeals are disposed of with a direction to the Tribunal to dispose of the matter within a period of two months from the date of the receipt/production of the certified copy of this order. Registry of the High Court is directed to transfer the file of CWP No.3985/1982 to the Tribunal, if not already transmitted. Tribunal to proceed on the basis of the pleadings already filed. Liberty to the parties to file addl. documents/affidavits before the Tribunal in terms of the order passed by the Division Bench within three weeks from today. If the addl. documents/affidavits are not filed within three weeks then the Tribunal shall proceed to dispose of the matter on the available material. In case the matter is not disposed of by the Tribunal within two months as directed above, then the appellant would be at liberty to mention the matter before this Court for further directions.

(Vijay Kumar Sharma) (Vijay Dhawan)

AR cum PS to Hon.Judge Court Master

Signed order is placed on the file.

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 7552-7554 OF 2004

(Arising out of SLP(C) Nos. 11566-11568 of 2003)

P.D.Bhatnagar ... Appellant

Versus

Union of India & Ors. ... Respondents

O R D E R

Delay condoned.

Leave granted.

By its impugned order dated 13.2.2002 the Division Bench of the High Court while setting aside the order of the learned Single Judge has remitted the case to the learned Single Judge for a fresh decision in accordance with law. Liberty was reserved with the appellant to raise the question regarding subsistence allowance by amending the writ petition, if not already raised, and consequently the respondents would also be at liberty to bring on record sufficient material to show that either subsistence allowance for the period in question has been paid and if not, for what reasons the same could not be paid. Thereafter, the appellant filed a review petition which was dismissed by the Division Bench on 16.4.2002.

After the dismissal of the review petition the writ petition was listed before the learned Single Judge on 26.11.2002. The appellant submitted to the jurisdiction of the learned Single Judge. As on 26.11.2002 the jurisdiction to adjudicate the dispute of the appellant (he being the Central Government employee) vested in the Central Administration Tribunal, Principal Bench, New Delhi (for short 'the Tribunal'). The learned Single Judge accordingly directed the Registry to transfer the case to the Tribunal and the parties were directed to appear before the Tribunal on 16.12.2002.

Thereafter, special leave petition was filed in this Court on 13.3.2003 with the application to condone the delay in filing the special leave petition. The appellant has challenged the order of the Division Bench dated 13.2.2002 in LPA 564 of 1999, the order dated 16.4.2002 passed in the review petition and the order dated 26.11.2002 passed by the learned Single Judge in the writ petition.

Since the appellant submitted to the jurisdiction of the learned Single Judge the order passed by the Division Bench has worked out. We are afraid that in this view of the matter and at this stage it may not be possible for us to interfere with the order passed by the Division Bench or the learned Single Judge.

The appeals are disposed with a direction to the Tribunal to dispose of the matter within a period of 2 months from the date of the receipt/production of the certified copy of this order. The Registry of the High Court is directed to transfer the file of SWP No. 3985 of 1982 to the Tribunal immediately, if not already transmitted.

The Tribunal shall proceed on the basis of the pleadings already filed. However, the appellant as well as the respondent shall be at liberty to file any additional documents/affidavits before the Tribunal in terms of the order passed by the Division Bench within three weeks from today. If the additional documents/affidavits are not filed within three weeks then the Tribunal shall proceed to dispose of the matter on the available material.

In case the matter is not disposed of by the Tribunal within two months as directed above, then the appellant would be at liberty to mention the matter before this Court for further directions.

.....J.
(ASHOK BHAN)

.....J.
(Dr. AR. LAKSHMANAN)
New Delhi;
November 19, 2004