

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCHRA 35/2002 in
MA 270/2002
OA 1514/2001

New Delhi this the 12th day of July, 2002

Hon'ble Smt. Lakshmi Swaminathan, Vice Chairman (J)
Hon'ble Shri Govindan S. Tampi, Member (A)Shri Latoor Singh
S/O Sh. Harender Singh,
R/O Vill. Etmad Sarai,
P.O. Chandpura, Ashifabad,
Distt. Bulandshaher (U.P.)

.. Review Applicant

(By learned proxy counsel
Ms. S. Chaudhary for Shri
D. S. Chaudhary)

VERSUS

1. The Commissioner of Police,
Police Headquarters, M.S.O.,
Building, I.P.Estate, New Delhi.2. The Deputy Commissioner of Police,
Head Quarters (Estt.)
Police Head Quarters, MSO Bldg.,
I.P.Estate, New Delhi.

.. Respondents

(By Advocate Shri Ajesh Luthra)

O R D E R (ORAL)

(Hon'ble Smt. Lakshmi Swaminathan, Vice Chairman (J)

We have heard, Ms. S. Chaudhary, learned proxy counsel for the review applicant at length in Review Application 35/2002 with MA 270/2002 which has been filed for condonation of delay in filing the R.A. Replies to RA and MA have been filed by the respondents and we have also heard Shri Ajesh Luthra, learned counsel for the respondents.

2. The main contention of learned proxy counsel for the review applicant is that the Tribunal's order dated 21.8.2001 in OA 1514/2001 is an "erroneous order". In Para 2 of the R.A., it has been stated, inter-alia, that the OA

was dismissed on the ground that the driving license possessed by the applicant is a "forged" one as the same was not issued by the Licensing Authority, Agra. Learned counsel has emphasized on another document said to have been issued by the R.T.O., Agra on 31.12.2001 which had been received in the office of the counsel for the applicant on 5.1.2002 which, according to her, confirms that the license of the applicant relied by her is genuine, as the same was issued by the competent authority. She has, therefore, submitted that the reasoning of the Tribunal in the aforesaid order is "erroneous" as the Tribunal has accepted certain official documents placed on record by the respondents. She has also submitted that this has led to a miscarriage of justice and, therefore, the order dated 21.8.2001 should be re-called and if necessary, the respondents may be directed to reverify the present document relied upon by the applicant i.e. letter dated 31.12.2001 from RTO, Agra. She has also explained the delay in filing the RA which has admittedly been delayed by 3 Months and 20 days.

3. In reply, Shri Ajesh Luthra, learned counsel has drawn our attention to the fact that nowhere in the affidavit filed by the applicant, he has stated that he has accompanied the learned counsel on his visit to Agra in the office of RTO on 12.12.2001. However, in the course of arguments, Ms. S. Chaudhary, learned proxy counsel for the applicant has submitted that she and the applicant would be prepared to file an additional affidavit to mention these

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facts at this stage. This has been objected to by Shri Ajesh Luthra, learned counsel for the respondents, who has submitted that what the learned counsel for the applicant is attempting is to re-argue the case which she cannot do. According to learned counsel for the respondents, the same issues have been dealt with by the Tribunal in the aforesaid order extensively in coming to the conclusions and none of the grounds taken are sufficient to allow the R.A. He has also submitted that similarly, none of the grounds taken in MA 270/2002 for condonation of delay are sufficient. He has also pointed out that the averments made in RA are vague because neither the name of RTO, Agra whom the learned counsel for the applicant had visited personally on 12.12.2001 nor the designation of certain other officers have been disclosed, but he has only simply mentioned the names. He has also submitted that an affidavit has been filed by the applicant that the RA has been drafted by his counsel under his instructions but nowhere he has stated that he had accompanied him to Agra. Learned counsel has also submitted that there are a number of contradictory statements. He has submitted that in the facts and circumstances of the case, the Tribunal's order dated 21.8.2001 which is a reasoned order based on the relevant facts and law cannot be recalled. He has, therefore, prayed that MA and RA should be dismissed.

4. We have carefully considered the pleadings and the submissions made by the learned counsel for the parties. It is relevant to mention that repeatedly, Ms.S.Chaudhary,

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learned proxy counsel has referred to the Tribunal's order dated 21.8.2001 as "erroneous" and has, therefore, prayed that the same may be re-called. She relies on the letter dated 31.12.2001 received from RTO, Agra and prayed that if necessary, the respondents may be directed again to verify the same. In a catena of judgments of the Hon'ble Supreme Court it has been held that "a review is by no means an appeal in disguise whereby an erroneous decision is reheard and corrected but lies only for patent error". (See the judgments of the Hon'ble Supreme Court, for example, Thungabhadra Industries Ltd. Vs. The Government of Andhra Pradesh (AIR 1964 SC 1372), Chandra Kanta and Anr. Vs. Sheikh Habib (AIR 1975 SC 1500), A.T.Sharma Vs. A.P.Sharma and Ors (AIR 1979 SC 1047) and Meera Bhanja Vs. Nirmala Kumari Choudhury (AIR 1995 SC 455).

5. Very laborious arguments have been advanced by the learned proxy counsel for the applicant which do not show any patent error on the face of the record i.e. the order dated 21.8.2001 to justify allowing RA 35/2002. In Meera Bhanja's case (supra), the Hon'ble Supreme Court has held :-

" Review " Error apparent on face of record" - Means an error which strikes one or mere looking at record and would not require any long drawn process of reasoning on points where there may conceivably be two opinion".

6. What has been relied upon by the learned counsel in RA is the letter dated 31.12.2001, which was admitted by her during the hearing, is similar to Annexure A-4 in the OA. In
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our order dated 21.8.2001, we have given the reasons why we find that there was no merit in the application. It is settled law that a RA cannot be used as if it is an appeal to re-argue the whole case where no patent error appears on the face of the record. In Chandra Kanta's case (supra), the Hon'ble Supreme Court has held that "a review of a judgement is a serious step and reluctant resort to it is proper only where a glaring omission or patent mistake or like grave error has crept in the earlier order by judicial fallibility. A mere repetition through different counsel of old and overruled overruled arguments, a second trip over ineffectually covered ground or minor mistake of inconsequential import are obviously insufficient". In the present case, it is relevant to note that while the OA was argued by Shri D.S.Chaudhary, Advocate, the present RA has been argued by his junior, Ms.S.Chaudhary and this is mentioned in the context of the aforesaid judgement of the Supreme Court and the arguments of the proxy counsel in the RA.

7. We also see force in the submissions made by Shri Ajesh Luthra, learned counsel for the respondents that the factual averments made by the applicant in RA are somewhat different from what he has stated in the affidavit itself. The submissions made by Ms.S.Chaudhary, learned proxy counsel at this stage that they may be permitted to file an additional affidavit is, therefore, rejected because the applicant had ample opportunity to bring on record the

additional correct facts which he has not chosen to do for whatever reasons known to him.

8. In the present case, the learned proxy counsel for the review applicant has submitted lengthy arguments repeating that the order dated 21.8.2001 is "erroneous" but has failed to point out any error on the face of the record. Therefore, for the aforesaid reasons and following the judgements of the Hon'ble Supreme Court, some of which have been referred to above, we find no good grounds to allow the RA. RA 35/2002 is liable to be rejected. It is also relevant to note that in Para 7 of the previous order we had already expressed an opinion that it is quite evident from the averments made by the applicant in the OA as well as the annexures that there has been a serious attempt on his part to mislead the Court and misuse the process of law.

9. Apart from the merits, we are also not satisfied with the grounds given in MA 270/2002 for condonation of delay in filing the RA on 11.2.2002, having regard to Rule 17 of the Central Administrative Tribunal (Procedure) Rules, 1987. Therefore, the prayer for condonation of delay is rejected and MA 270/2002 is accordingly disposed of.

10. In the result, for the reasons given above, RA 35/2002 fails both on the grounds of merits and limitation. Accordingly, RA 35/2002 and MA 270/2002 are dismissed.

(Govindam S.Tamp1)
Member (A)

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Lakshmi Swaminathan
(Smt. Lakshmi Swaminathan)
Vice Chairman (J)