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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH: NEW DELHI

R.A. No.179 of 2002
IN
O.A. No.935 of 2001

This the 3rd day of February, 2003

Hon'ble Smt. Lakshmi Swaminathan, Vice Chairman (J)
Hon'ble Shri S.K. Malhotra, Member (A)

Vijender Kumar,
S/o Shri Jai Singh,
R/o 2362, Bawana Road,
Delhi-110040.

....Applicant
(By Advocate : Shri Davesh Singh with Shri Amit Rathi)

Versus

1. The Chief Secretary,
Govt. of N.C.T. of Delhi,
Delhi Secretariat, I.P. Estate,
New Delhi.
2. The Principal Secretary (Services),
Govt. of N.C.T. of Delhi,
Delhi Secretariat, I.P. Estate,
New Delhi.
3. The Director,
U.T.C.S. (Training)
Govt. of N.C.T. of Delhi,
Institution Area, Viswas Nagar,
Shahdara, Delhi-110032.

....Respondents
(By Advocate : Shri George Paracken)

ORDER (ORAL)

Smt. Lakshmi Swaminathan, Vice Chairman (J) :

We have heard Shri Davesh Singh, learned counsel for review applicant in RA 179/2002 and MA 1762/2002, which has been filed by the review applicant for condonation of delay in filing the review application. We have also heard Shri George Paracken, learned counsel for respondents.

2. In MA 1762/2002, two main grounds have been taken by the review applicant praying for condonation of delay in filing the review application, namely, (1)

(8)

firstly, that he had earlier made a mistake in filling the application form for applying for the certified copy of the order in the present application i.e. OA 935/2001 by applying wrongly for the order in OA 985/2001. As far as this ground is concerned, we do agree with the contention of the learned counsel for the respondents that this ground cannot be accepted as it only shows carelessness on the part of the applicant. The second main ground in the MA is that the applicant's father met with serious injuries in a Bus accident on 4.5.2002 for which he has annexed certain medical papers from three different hospitals. We also note that there is some discrepancy in the ages mentioned against the name of Shri Jai Singh stated to be the father of the applicant in the affidavit.

3. The Review Application has been filed on 17.5.2002. We note from the copy of the order of the Tribunal dated 4.4.2002 that certified copy of the order was ready on 7.5.2002 and on the same date, the copy was signed by the Section Officer (Jud1.), CAT, New Delhi. In the circumstances, we are unable to agree with the contentions of the respondents in the reply to MA that the applicant is seeking condonation of delay of six months in filing the review application beyond the permissible period of 30 days which expired on 4.5.2002, as this Review Application has been filed on 17.5.2002.

gj

4. Taking into account the totality of the facts and circumstances of the case, we, therefore, allow MA 1762/2002 praying for condonation of delay in filing the Review Application on the grounds mentioned by the applicant.

5. In RA 179/2002, Shri Davesh Singh, learned counsel has submitted that the provisions of sub-rules (3) and (4) of Rule 14 of the CCS (CCA) Rules, 1965 have been violated. He has submitted that these grounds which have been taken in the pleadings, have not been dealt with by the Tribunal in the order dated 4.4.2002. He has, therefore, prayed that RA may be allowed and OA may be reconsidered on merits. This has been opposed by Shri George Paracken, learned counsel for the respondents that reading of the Tribunal's order dated 4.4.2002 in OA and particularly paragraphs 3, 5 and 6 show that the relevant materials on record have been perused by the Tribunal before passing the judgement/order dated 4.4.2002. He has submitted that no grounds have been made out in the review application warranting allowing the Review Application as per the settled principles of law.

6. We have given our anxious thought to the contentions of the review applicant. We have read and re-read the order dated 4.4.2002 passed in OA, in which one of us (Smt. Lakshmi Swaminathan, Vice Chairman (J)) was also a Member. Shri Davesh Singh, learned counsel has also referred to the impugned disciplinary authority's order dated 18.2.1999 and the

other impugned orders, which we have also carefully considered. It is settled law that the Review Application cannot be considered as if it is an appeal wherein the same grounds can be reagitated (see the judgements in Thungabhadra Industries Ltd. Vs The Government of Andhra Pradesh (AIR 1964 SC 1372); Chandra Kants & 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). 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 earlier by judicial fallibility. It has also been held by the Hon'ble Supreme Court in the case of Avtar Singh Vs. Union of India (AIR 1980 SC 2041) that review of the earlier order cannot be undertaken unless the Court/Tribunal is satisfied that "material error, manifest on the face of the order, undermines its soundness or results in miscarriage of justice." We are unable to agree with the contentions of Shri Davesh Singh, learned counsel that any such error apparent on the face of record is manifest in the Tribunal's order dated 4.4.2002 to allow the Review Application.

7. In the result, for the reasons given above, RA 179/2002 is rejected.

Malhotra
(S.K. Malhotra)
Member (A)

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