

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI.

RA-138/96 in
OA-582/94

(29)
HON'BLE SHRI JUSTICE CHETTUR SANKARAN NAIR(J), CHAIRMAN
HON'BLE SHRI JUSTICE R.K. AHOOJA, MEMBER(A)

New Delhi, this the 16th day of October, 1996.

Shri Yash Pal Kohli,
S/o Shri Kesar Chand Kohli,
R/o 8943/1, Multani Dhanda Paharganj,
New Delhi-110055. Review Applicant

(through Sh. Mahesh Srivastava, advocate)

versus

1. General Manager,
Northern Railway,
Baroda House,
New Delhi.

2. Chief Medical Officer,
Northern Railway HQRS,
Baroda House,
New Delhi.

3. Senior Divisional Personnel Officer,
D.R.M. Office, Paharganj,
Northern Railway,
New Delhi.

Respondents

(through Sh. D.S. Mahendru, proxy counsel for
Sh. P.S. Mahendru, advocate)

The application having been heard on 16.10.1996
the Tribunal on the same day delivered the following:

ORDER
Chettur Sankaran Nair(J), Chairman

This is an application to review the order
made in OA-582/94. Since one of the learned Members
who constituted the Bench is not available, the
application has been posted before us.

2. The application has a long and chequered
history. After several rounds, the matter came before
the Tribunal in OA-582/94 complaining of:

"inadequate settlement of
retirement benefits on superannuation."

3. The Bench noticed the different contentions and observed in paragraph-6:

"We find that the application cannot be said to be free from laches as after the judgement in October, 1988, four years after that the applicant was superannuated and there is nothing on record to justify that he made any serious attempt for complying with the judgement."

4. Notwithstanding the laches, the Bench proceeded to consider the matter on merits and held:

"since the earlier order dated 20.4.1981 declaring applicant unfit for the post of Driver was quashed by the Tribunal and a direction was given to reconstitute Medical Board and in the event of the applicant's being found suitable for a particular type of job but he does not express his willingness to accept, he should be given liberty to voluntarily retire."

5. Then, the Bench observed:

"applicant has to subject himself as per rules for medical examination, the argument of applicant is that medical board was not constituted till date of his superannuation."

6. Thereafter, the Tribunal proceeded to issue certain directions. According to learned counsel for applicant the observations made in paragraph-6 that the application cannot be said to be free from laches, transgresses limits of judicial restraint. We find it very difficult to assent to the submission. Quite apart from that, assuming such an unjustifiable remark had been made, what could be asked for is expunction

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and not review. As for the second point, we find no error apparent on the face of record. Learned counsel for review applicant referred to various provisions of the Railway Service (Commutation of Pension) Rules and then submitted that the directions now issued are inconsistent with the findings in the earlier original application. Assuming that there was an error in the reasoning of the Tribunal, the reasoning being on a comparison of two different orders, it is not possible to say that it is an error apparent on the face of record. The scope and contours of the jurisdiction has been clearly laid down by the Supreme Court time and again. What is intended is not a rehearing. In Smt. Meera Bhanja versus Nirmala Kumari Choudhary, (AIR 1995 SC 455), the Court observed:

"It is well settled that review proceedings are not by way of an appeal and have to be strictly confined to the scope and ambit of Order 47, Rule 1, C.P.C... The power of review may be exercised on the discovery of new and important matter which, after due diligence was not within the knowledge of the person seeking the review.. It may not be exercised on the ground that the decision was erroneous on merits. That would be the province of a Court of Appeal. A power of review is not to be confused with appellate power which may enable an Appellate Court to correct all manner of errors.. An error which has to be established by a long drawn process of reasoning on points where there may conceivably be two opinions can hardly be said to be an error apparent on the face of the record. Where an error is far from self-evident and if it can be established, by lengthy and complicated arguments, such an error cannot be cured by a writ of certiorari according to the rule governing the powers of the superior Court to issue such a writ."

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7. Error is not to be spelt out by comparing the findings in two orders and making out that the conclusion is unreasonable. This is far away from the jurisdiction exercised in review. We may also point out that finality and certainty are also virtues of judicial process and decisions once rendered validly are not to be overturned on different, or even better reasonings or arguments.

8. Review Application is without any merit and we dismiss the same. However, we leave the parties to bear their costs.

Dated, 16th day of October, 1996.

R.K. Ahuja
(R.K. Ahuja)

Member(A)

Chettur Sankaran Nair
(Chettur Sankaran Nair(J))

Chairman

/vv/