

Central Administrative Tribunal
Principal Bench

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R.A. No. 327/95
in
O.A. No. 2145/94

(b)

New Delhi, this the 28th day of Dec., 1995

Hon'ble Shri B.K.Singh, Member (A)

Shri M.V.Srinivasan,
Retired S.O., Railway Board,
New Delhi.

R/o C.2/169, Janakpuri,
New Delhi- 110 058.

..Review applicant.

(By Shri S.M.Singh, Advocate)

Versus

Union of India,
through the Secretary (FRB-IV),
Railway Board, Rail Bhawan,
New Delhi- 110 001.

..Respondents.

(By None)

ORDER (BY CIRCULATION)

By Hon'ble Shri B.K.Singh, Member (A) :

This R.A. No. 327/95 has been filed against the judgement in O.A. No. 2145/94 decided on 2nd November, 1995. The application was dismissed as barred by principles of resjudicata. This Tribunal does not have any inherent power of review. It exercises the power under Order 47 Rule 1 of the C.P.C. which lays down that the review application can be entertained when (i) any evidence or document, which inspite of due diligence, was not available to him at the time of final hearing and is available now; (ii) on the ground of an error apparent on the face of the record or (iii) on any other analogous ground. None of these

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ingredients are present in the present review application. The only plea is that the principles of resjudicata would not apply, since the respondents have wrongly implemented the order. The question whether willfully an order has been wrongly implemented or that the respondents have misinterpreted the orders deliverately, is a matter to be taken up in C.C.P. It is only in case of any error apparent on the face of the record that the applicant would have been well within his right to move for rectification of that error. The fresh application is not permissible if the matter has been adjudicated upon by a Court of competent jurisdiction. A decision being inter-partes based on a view of law connected with thenfacts relating to right of parties is binding on them even though abstract proposition of law dissociated from the facts may not be so. Matter in issue may be an issue of fact, an issue of law or one of mixed fact and law. An issue of fact or an issue of mixed fact and law decided by a competent court is finally decided between the parties and cannot be re-opened between them in any other proceedings. A wrong understanding of a judgement while complying with an order also cannot give rise to a fresh suit or application. The claim of right adjudicated upon, is a proof offacts and application of law relevant thereto. When a right has already been adjudicated upon a finality is achieved and as such it cannot be re-opened again in anotherfresh suit. Intentional misinterpretation of a judgement or an order or its willful disobedience will amount to contempt and can be thrashed out in contempt proceedings. Since this review application does not fall within the four corners of order 47 rule 1, the same is summarily rejected under Order 47 Rule 4(i) of the C.P.C. The prayer for fresh hearing in the Open Court in R.A. cannot be accepted. RA cannot be filed for any fresh hearing,once the matter has been adjudicated upon finally and there is no error apparent on the face of the record and there/important

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evidence produced to re-open the judgement and order passed in the original application.

This review application is not maintainable and is summarily rejected under Order 47 Rule 4 (i) of the C.P.C.

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(B.K.SINGH)
Member (A)

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