

CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

RA No.318/1995 OA 74/1995

New Delhi, this 8th day of December, 1995

(2)

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

Shri R.C. Sachdeva  
Flat No.11A, Dena Society Apartments  
S-13, Rohini, Delhi-85 .. Applicant

By Shri S.K. Sawhney, Advocate

versus

Union of India, through

1. Secretary  
Min. of Telecommunications  
Sanchay Bhawan, Ashoka Road, New Delhi
2. The District Telecom Manager  
Rohtak, Haryana .. Respondents

ORDER(in circulation)

This RA 318/95 in OA 74/1995 is directed against the order dated 27.10.1995. When a matter is adjudicated upon, the court is required to not only hear the rival contentions of the parties but is also required to peruse the record of the case. The records clearly indicate that the period of leave from 1.9.86 to 16.11.88 had been treated as admissible leave but the period from 10.4.80 to 24.4.80 was declared as dies-non and the applicant did not file any representation against the order and no relief was sought for regularisation of this period against any kind of leave due to him. The relief not prayed in the previous OA was not granted. Secondly, if a person does not raise a howl or protest when the period is declared as dies-non and does not file representation for regularising the period against any kind of leave due, the irresistible presumption is that he has acquiesced in that decision of the period being treated as dies-non. The ratio of the judgement in Om Prakash Shukla Vs. <sup>Anil Kumar</sup> Aplesh Kumar Shukla AIR 1986 SC 1043 will come in his way and operate as

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*Continuity*

estoppel against him. The ~~continuity~~ of service has been broken in two spells as a result of non-regularisation of the period declared as dies non from 10.4.80 to 24.4.80, one period from 13.7.63 to 9.4.80 and the second from 25.4.80 to 31.12.80. The continuity of service having been broken, it was left to the applicant to approach the authorities to regularise the period against any kind of leave due to him or to claim retiral benefits on the basis of any one of the two spells being beneficial to him. No direction was given by the Tribunal since the applicant remained totally indolent.

2. This review application does not fall within the four corners of Order 47 Rule 1. The Tribunal is not vested with any inherent power of review. It exercises that power under order 47, rule 1 of CPC, if there is (1) discovery of a new and important piece of evidence, which inspite of due diligence was not available with the review applicant at the time of hearing or when the order was made; (2) an error apparent on the face of the record or (3) any other analogous ground. None of these ingredients <sup>are</sup> ~~is~~ present in the review application and as such the same is summarily rejected under order 47, rule 4(1) of the CPC.

  
(B.K. Singh)  
Member(A)

/gtv/