

①

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI

R.A.No. 350/93

Date: 21.10.93

in

O.A.No. 1163/93.

SHRIMATI LAJWANTI

V/s

UNION OF INDIA & ANOTHER

O_R_D_E_R

The review application filed by the applicant is for seeking review of the judgement dated 26.7.1993 in O.A. No. 1163/93.

2. The main ground in seeking review of this judgement is that the Respondent's counsel has misrepresented the Tribunal stating that the late husband of the applicant had retired from service in the year 1968 which is incorrect on the face of it. The applicant contends by saying that as per the record, the applicant's late husband was appointed as Sorting Assistant on 6.5.1960 and died on 13.7.1985 while in service and not in 1968. Further, it is wrong to suggest that applicant's husband has filed O.A. 2482/91 because the applicant's husband died on 13.7.1985. There is a patent error in the representation made by the Respondents' Counsel. Further, the applicant, being a widow of her late husband, is claiming relief on the basis of the judgement delivered by this Tribunal vide

2

dated 23.7.92 and was granted relief four widows similarly situated like the applicant.

3. Though the judgement was delivered on 26.7.93, it was delivered to the applicant on 5.8.93.

He filed this review application only on 13.9.1993 which was beyond the period of 30 days as required under the rules.

4. Under O. 47 Rule 1 of the CPC, the scope of the review application is very limited and review application is maintainable only if there is an error apparent on the face of the record or some new evidence has come to notice which was not available even after exercise of due diligence or any other sufficient reason.

5. Respondents have not filed their counter reply despite sufficient opportunities have been given to them. However, during the course of hearing, the learned counsel for the Respondents, Shri Khurana, brought to my notice that the O.A. is a belated one and the cause of action ^{no jurisdiction} arose prior to 1.11.82 and this Tribunal has to entertain the petition. Similar plea of limitation had been taken in O.A. No. 1649/88 decided on 20.1.1989. Nevertheless, the Tribunal had granted relief to the applicant

3

keeping in view of the ratio decidendi decided in

A.K. Khanna and Others v. Union of India

[ATR 1988 (2) CAT 518] and directed the Respon-

dents to make payment of the arrears of salary due

to the applicant w.e.f. 1.10.68. Similarly, the

applicants in O.A. No. 1610/91 decided on 23.11.92,

4 widows of the erstwhile employees had been given

similar reliefs and directed the Respondents to pay

arrears of salary benefit from service from December

1992. Similar benefits have been sought for by the

applicant in this O.A. No. 1163/93 on the plea that

he has not participated in the 1968 strike and was

willing to perform his duties during strike. In the

absence of any denial/reply by the Respondents, the

avermment made by the applicant has to be treated as

correct. Though the Respondents raised plea of limitation

in the O.A's. referred to above pursuant to the decision

of the Tribunal, it is alleged that the Respondents

have paid arrears of salary to the applicant on the

basis of the Tribunal's orders. The said orders of the

Tribunal have not been challenged by the department.

A perusal of the review petition makes it clear that the

statement made by the Respondents' counsel during the

24

course of hearing is found to be incorrect as the deceased husband of the applicant in fact died while in service in the year 1985 and not in the year 1968 as alleged.

7. Accordingly, the applicant prayed for the following reliefs :-

- (i) That the judgement dated 26.7.93 in OA No. 1163/93 may kindly be reviewed.
- (ii) O.A.No. 1163/93 which was dismissed on 26.7.93 may kindly be restored and the Respondents may be directed to file their counter affidavit so that the statement made by the ld. counsel for the Respondents be brought on the record before giving any final decision in the matter.

8. Though the Review Application was slightly belated, however, in the facts and circumstances of the case, I am of the opinion that keeping in view of the earlier decisions of this Tribunal, it is felt that this is a fit case that the O.A. may be restored as there is an error apparent on the face of the record and the Respondents be directed to file their reply before deciding the O.A. on merits. The delay, if any, in filing this R.A. is condoned.

9. In the light of the above, Respondents are hereby directed to file their reply within 4 weeks on receipt

5

of this order and copy of the reply be given to
the applicant or the applicant's counsel in advance.

Thereafter, the O.A. be listed for further hearing
before a Bench to decide on merits. The Review
Application is disposed of accordingly.

(B.S. Hegde)
Member (j)

B.S. Hegde
21/10/93