

Central Administrative Tribunal
Principal Bench

RA 51/2000
in
OA 2729/93
with
MA 352/2000
and
MA 353/2000

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New Delhi this the 24 th day of **April**, 2000

Hon'ble Shri V. Ramakrishnan, Vice Chairman (A).
Hon'ble Smt. Lakshmi Swaminathan, Member (J).

Surinder Kumar Gupta,
S/o Shri Lajpat Rai Gupta,
C/o Shri O.P. Gupta,
73-I, Bhoor Bharat Nagar,
Ghaziabad (UP).

... Applicant.

Versus

1. Union of India through
General Manager,
Northern Railway,
Baroda House,
New Delhi.
2. Sr. Divl. Mechanical Engineer,
DME (C&W) NDLS, DRM Office,
Pahar Ganj,
New Delhi.
3. Divl. Mechanical Engineer,
DME (C&W) NDLS DRM Office,
N. Railway, Paharganj,
New Delhi.
4. Divl. Personal Officer,
DRM Office, N. Railway,
New Delhi.
5. Superintendent, CBI,
CBI Office, Dehradun (UP). ... Respondents.

O R D E R (By circulation)

Hon'ble Smt. Lakshmi Swaminathan, Member (J).

RA 51/2000 has been filed by the applicant in O.A. 2729/93 praying for recall of the order dated 12.7.1999. He has prayed that the applicant may be given an opportunity to address arguments on his behalf in support of the application (O.A. 2729/93).



2. In the Review Application, one of the grounds taken by the applicant is that he had engaged Shri A.K. Bhardwaj, Advocate, to represent his case. He has stated that as his name did not appear in the cause list and the name of Shri Mahesh Srivastava had appeared, Shri A.K. Bhardwaj, learned counsel, had not been heard. He has also submitted that Shri Mahesh Srivastava was never his counsel and earlier he was represented by late Shri Umesh Misra. In the Vakalatnama dated 18.2.1994 which is on record, the applicant had appointed Shri Umesh Misra and Co. Advocates and Mahesh Srivastava, Advocates, to appear and plead on his behalf in O.A.2729/93. In the circumstances, the contention of the applicant that he had never engaged Shri Mahesh Srivastava whose name had appeared in the cause list is untenable as the Vakalatnama shows otherwise. Although the Vakalatnama of Shri A.K. Bhardwaj, learned counsel dated 6.4.1994 is also on record, the applicant or his counsel could have also appeared and made their submissions if they wanted to when the case was listed for hearing and finally disposed of by an order 12.7.1999. This Review Application has been filed by yet another Advocate Shri Anis Suhrawardy.

3. The judgement and order dated 12.7.1999 is an oral speaking order giving detailed reasons for the same, which has been passed after seeing the records and referring to the applicant's case as well as the reply of the respondents and hearing Shri R.L. Dhawan, learned counsel. The grounds taken by the applicant that the submissions on behalf of the applicant could not be put forward which resulted in dismissal of his O.A. on the submissions of the respondents alone is, therefore, untenable as the order has been passed on the basis of the documents on record filed by

the parties.

4. The applicant has tried to re-argue his case in the Review Application which is not permissible having regard to the settled law under which alone in cases where there is any error apparent on the face of the record or any sufficient reason, the review application will lie. No such ground has been shown by the review-applicant. The review application cannot be used as an appeal in disguise to re-agitate the same matter. In the facts and circumstances of the case, as there is no error apparent on the face of the record or any sufficient reason which falls under the provisions of Order 47 Rule 1 CPC read with Section 22(3)(f) of the Administrative Tribunals Act, 1985, we see no justification to allow the Review Application 51/2000 and it is accordingly liable to be rejected.

5. Apart from that, the applicant has also filed M.A.352/2000 and M.A.353/2000 for condonation of delay in filing the Review Application and prayer for exemption from filing a certified copy of the judgement and order dated 12.7.1999 as he does not have the same. Certified copy of the aforesaid judgement and order dated 12.7.1999 has been issued by the Registry to the parties on 22.7.1999, to the applicant by post and to the respondents by hand on 23.7.1999. The Review Application has been filed on 27.9.1999. In the M.A. for condonation of delay, the applicant has failed to mention when he has received the copy of the order dated 12.7.1999. He has submitted that he had not been informed by his previous counsel of the passing of the judgement well in advance and his wife was also not keeping good health. Hence, delay in filing the Review Application for which he has sought condonation.

6. The applicant has neither stated when he has

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received the certified copy of the judgement and order dated 12.7.1999 nor the period when he has alleged that his wife was not keeping good health. In the circumstances, the reasons given in the MA cannot be held to be sufficient reason to condone the delay in filing the Review Application. The Review Application has been filed after the prescribed period of thirty days under Rule 17 of the CAT (Procedure) Rules, 1987. In the facts and circumstances, the reasons given in M.A. 352/2000 cannot be considered as sufficient to condone the delay and RA is, therefore, liable to be rejected on the ground of limitation also.

7. In the above circumstances, as the certified copy of the judgement/order dated 12.7.1999 has been filed by the applicant himself along with the R.A., M.A. 353/2000 praying for exemption from filing the certified copy of the judgement/ order is not relevant. That M.A. is also liable to be rejected.

8. In the result, for the reasons given above, RA 51/2000, MA 352/2000 and MA 353/2000 are rejected.

Lakshmi

(Smt. Lakshmi Swaminathan)
Member (J)

V Ram

(V. Ramakrishnan)
Vice Chairman (A)

SRD