

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH: NEW DELHI

R.A.No.108/93 in OA 167/87

Date of decision 6-4-1993

Shri M.N. Dixit .. Applicant

Vs.

Union of India & others .. Respondents

CORAM

Hon'ble Mr. C.J. Roy, Member (J)

For the Applicant .. Shri Vinay Kumar Garg,
Counsel

For the respondents .. Shri P.P. Khurana, Counsel

JUDGEMENT

This review application is filed by the applicant against the order passed in OA 167/87 dated 30.10.91 claiming a relief that the order be reviewed and to pass any such further order or direction as the Tribunal may deem fit. This RA is posted before for disposing of.

2. The OA was disposed of when none for the applicant was present and the extracts of the entire prayer of the OA were mentioned in the Tribunal's order, i.e.

- " i) To pass orders for payment of pay and allowances for the periods 8.7.82 to 10.8.82 and 1.6.84 to 10.12.84;
- ii) To pass orders for crediting the earned leave and half pay leave earned by him during the month of March, 81 to August, 82 and June, 84 to December, 84 to applicant's leave account.
- iii) Applicant has also claimed the interest on arrears of pay from 28.5.82 till the date of final order."

1

3. The Hon'ble Member considered the case and observed the case of the respondents as well and disposed of the DA with the following direction:

"In the premises, applicant is hereby directed to make an application for regularisation of his absence for the period 8.7.82 to 10.8.82 within a period of one month from today. Respondents are directed to take a decision on the application to be submitted by the applicant within a period of one month from the date of receipt of the same. Respondents are further directed to make payment of the pay and allowances which may be found due to the applicant for the aforesaid period within a further period of two months of the receipt of the application from the applicant for regularisation of his absence."

4. Now the applicant has failed this RA stating that he was transferred on the same day to two places and that he was in a fix as to which place he should go and he sought clarification. He received the clarification only on 9.8.1982 and the next day he has joined his duty. Therefore, for the period for which he was claiming salary is to be paid to him, as claimed in the relief.

5. The learned Member has considered the pros and cons of the case of the applicant and also the counter and having found that none for the applicant was present, the judgement was pronounced with the directions as stated above. The applicant has not made any representation.

6. Now this review application is filed on 29.3.93 claiming that the judgement delivered on 30.10.91 is not known to the applicant until he inspected the records and learnt it on 15.2.93. I have heard the learned counsel for the applicant Shri V.K. Garg who states that under Rule 13 and 22 the Registry should

have communicated the order by registered post and he vehemently denies that he has not received the order.

7. I have called for the office Despatch Register and also the 'Journal of uninsured registered letters posted' and found that the office has sent the orders to the applicant and the respondents by registered post against Sl.No.6284, 6285 and 6286 on 20.11.91/22.11.91.

Therefore, the contention of the learned counsel for the applicant that the order was not despatched at all can not be sustained. I have no hesitation to say that the contention of the applicant that he learnt this only on 15.2.93 can not be accepted. The review is barred by limitation. When repeatedly questioned, the learned counsel for the applicant vehemently argued that he has not received any copy. I am not persuaded to agree with his argument, after having seen the office records stated above. When the judgement is communicated by registered post, the service is complete.

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8. Therefore, I have seen the office records as stated supra and hence I hold that the case is barred by limitation.

9. As far the relief claimed by the applicant, his plea that had he appeared in person he would have presented his case on all the points can not be a ground for filing a review. For reviewing the case, there must be some information which could not be placed at the time of hearing with due diligence and subsequently got

15 (18)

that information which altered the position, that there is a mistake apparent on record or that there are sufficient reasons as per Order 47, Rule 1 of CPC. None of the conditions are present in the review application.

I have also questioned the learned counsel whether he would make a representation even now. He replied that he is not at fault and why should ~~make~~ any representation ~~be made~~ and started reurging the whole case. After patiently hearing, I find that the case is not only barred by limitation but there is no mistake apparent on record. The applicant was present on some of the occasions and not present on some other occasions, he could have taken care as to when the case is posted next.

10. In view of the conscious decision taken by the Tribunal with reference to the particular relief claimed by the applicant and granted to him, I fail to see any mistake in the judgement. Hence the review fails not only on the point of limitation but also that there is no mistake apparent on record and that he can not reurge the case as if it is an appeal. Therefore, the review is dismissed with no orders as to costs.

Just
(C.J. Roy)
MEMBER (J) 16/4/93