

In the Central Administrative Tribunal <sup>(6)</sup>  
Principal Bench: New Delhi

RA No.319/92 in  
OA 72/87

Date of Order: 19.10.1992.

A.P. Srivastava

...Petitioner

Versus

Union of India & Another

...Respondents

Coram:-

Hon'ble Mr. Justice V.S. Malimath, Chairman

Hon'ble Mr. I.K. Rasgotra, Administrative Member

**O R D E R**

The above R.A. has been filed seeking review of our judgement dated 28.7.1992 in OA No.72/87 under Rules 15 and 17 of Central Administrative Tribunal (Procedure) Rules, 1987 principally on the ground that the counsel for the petitioner was not present and the petition was dismissed "ex-parte on merits through a speaking order." The review petitioner has submitted that "the case was being periodically watched and the deponent had visited the Tribunal for the purpose on 22.7.92. Thereafter the deponent was ill with stomach/intestinal trouble during the last week of July 1992 and could visit the Tribunal next only on 4.8.1992." In view of the above, the review petitioner seeks restoration of the O.A. in the interest of justice.

2. We have considered the matter carefully. The O.A. No.72/87 was on the cause list of 24.7.1992 and continued to remain in the cause list till it was disposed of on 28.7.92.

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The petitioner who is said to have visited the Tribunal on 22.7.92 would have no doubt observed that the cases filed in 1987 were on board and should have realised with good reason that OA-72/87 would not take long to come on the Board for final hearing, as in fact it did on 24.7.92. It should have, therefore, been possible for the petitioner herein or his client to take suitable steps to arrange representative in the Court on the relevant day for seeking adjournment. Besides, the judgement in question is not ex-parte but on merit. In fact the preamble of the judgement reads that "as this is a very old matter, we thought it proper to look into the record, hear the learned counsel for the respondents and dispose of this matter on merits." Rule 15 (2) of Central Administrative Tribunal (Procedure) Rules, 1987 which is relevant in the case of such petitioners stipulates that:-

"(2) Where an application has been dismissed for default and the applicant files an application within thirty days from the date of dismissal and satisfies the Tribunal that there was sufficient cause for his non-appearance when the application was called for hearing, the Tribunal shall make an order setting aside the order dismissing the application and restore the same:

Provided, however, where the case was disposed of on merits the decision shall not be responded except by way of review."

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The present R.A., therefore, can be responded to only by way of review defined in Order XLVII of Code of Civil Procedure. Accordingly the review of the judgement can be undertaken if there is an error apparent on the face of record or there is any fresh evidence/documents germane to the case which was not available even after exercise of due diligence earlier. In our view, the present R.A. does not fall within the purview of the provisions of Order XLVII of Code of Civil Procedure. The same is accordingly rejected.

*I.K. Rasgotra*  
(I.K. RASGOTRA)  
MEMBER(A)

*V.S. Malimath*  
(V.S. MALIMATH)  
CHAIRMAN

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