

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

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D. 2.12.91

R.A. NO.147/1991 in O.A. NO.1379/1988

SHRI RADHA MOHAN SHARMA & OTHERS VS. U.O.I. & OTHERS

The applicants have filed this Review against the order dt. 26.7.1991 by which the Original Application No.1379/88 was dismissed. The Review of a judgement lies on the following grounds :-

- (i) Discovery of new and important matter or evidence which after the exercise of due diligence was not with us in the knowledge or could not be produced by him at the time when the decree was passed or order was made and it is of such a character that it might alter the judgement.
- (ii) Mistake or error either of fact or law or procedure apparent on the face of the record; it may or may not have been argued at the original hearing of the suit.
- (iii) There is other sufficient reason. This expression has to be understood ejusdem generis.

2. In this Review Petition, the applicant pointed out that the finding arrived at in the judgement, that the applicants have not exhausted departmental remedies is contrary to the decision taken in the case of A.N. Saxena and Another Vs. Chief Commissioner, reported in ATR 1988(1) CAT 326 and 1990 (3) SLJ p-3. In short, the contention of the applicant is that when once an application has

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been admitted, the question of exhausting remedies available to the applicant departmentally which was mandatory under Section 20 (1) of the Administrative Tribunals Act, 1985, cannot be gone into. In the present case, the applicants have stated to have sent representations to the respondents regarding their verbal termination w.e.f. 19.2.1985. The sending of the representation by the respondents has been denied in their counter. This fact, therefore, was not before the Bench at the time when the matter was admitted. The representation (Annexure A-2) sent to the respondents earlier to the filing of this application was only by one Shri Satish Chand Singh, who is not an applicant before us. So the authorities cited by the learned counsel cannot be applied in the present case at all.

3. The second point taken by the applicant is that the finding on the point of not properly verifying the application has been arrived at while the Original Application was verified by one Shri Radha Mohan Sharma on his behalf as well as on behalf of other applicants. This is not the correct verification nor this fact was gone into at the time of admission. The defect was only known when the respondents' counsel pointed it out. When the application is filed by a number of applicants and they joined in one application, then there should be specific verification by each of them and also each of them should sign the

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application in proof of the fact that they are the applicants and identity can be fixed. This is the fatal defect.

4. The applicant has also pointed out to the Full Bench decision of P.S.Gopi, reported in ATLT 1989 (1) CAT 706 where it has been held that justice demands that case should be decided on merits rather than disposed of on technical grounds. The judgement in the case of the applicants was not passed on technical grounds, but it has been passed as per² ^{law laid down in} the Administrative Tribunals Act, 1985 and Administrative Tribunals Procedure Rules, 1987.

5. The applicant has also referred to the case of Amrit Lal Berri Vs. Collector of Central Excise, 1975 (1) SLR 153. That authority has no application to the present case. In the present case, the limitation is governed by Section 21 of the Administrative Tribunals Act, 1985. The applicant has to come before the Tribunal from the date of cause of action within the period given in that Section. In the recent judgement of Dr. S.S.Rathore Vs. State of Madhya Pradesh, reported in AIR 1990 SC p-10, the Hon'ble Supreme Court has categorically defined the scope of Section 21 as also defined the cause of action as to when it arises and ^{the} limitation starts running. In the present case, the applicants were terminated according to their own showing by the verbal order of 1985. The finding of limitation has been given after

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considering various legal and factual aspects on the point
and also considering the case of Sandhya Rani Sorkar Vs. Sudha
Rani, 1978 (2) SCC 116, which was followed in the case of
Satish Chand Singh-CA 1735/1987 and the points of distinction
have also been discussed in para-13 of the judgement.

6. We find that the case of the applicant cannot be re-opened.
The Review Petition is devoid of merits and is dismissed by
circulation.

J. P. Sharma
(J.P. SHARMA) 2.12.91
MEMBER (J)

J. Savara
(JSHA SAVARA) 2.12.91
MEMBER (A)