

16

Central Administrative Tribunal
Principal Bench, New Delhi.

R.A.No. 432/93 with
M.A.No.3548/93 In
O.A. No.2216/89

28th day of December, 1993.

Shri J.P. Sharma, Member (Jud1.)

Shri P.T. Thiruvengadam, Member (A)

Miss Usha Gupta,
R/o 3679, Gali Loha Wali,
Chawri Bazar,
Delhi-110006.

Applicant

By Advocate Shri O.N. Moolri.

Versus

1. Union of India through
Medical Supdt.,
Safdarjung Hospital,
New Delhi-110016.
2. Chief Administrative Officer,
Safdarjung Hospital,
New Delhi-110016.

Respondents

By Advocate : None

(Oral) O R D E R

Shri J.P. Sharma

A review was sought of the judgement in OA-2216/89 decided by the Principal Bench of which one of us (J.P. Sharma) was a Member. By the order dated 17.9.1993, the following direction was issued:-

"In the above circumstances of the case, the order of the respondents dated 21.11.1988 and subsequent orders passed upholding the said order, cannot be legally sustained and accordingly, are set aside and quashed."....."The respondents shall also pass necessary order after receiving the medical report in regard to the treatment of the period from the date of acceptance of

....2...

resignation till the date an order is passed on the basis of the medical report, as leave due, leave not due, extraordinary leave, as the case may be, in accordance with the relevant rules."

2A MA-3548/93 is moved to condone the delay in filing this Review Application. We have considered the averment made in the application for condonation of delay and in the interest of justice, we condone the delay.

3. We have heard at length the learned counsel for the applicant for the relief prayed for in the review application that the judgement be reviewed insofar it relates to the period from the date 18.11.1988 for consequential benefits arising out of the setting aside of the impugned and challenged order of the respondents and direct the payment of wages of the period 18.11.1988 to the date of reinstatement. The first ground for review is that there is incoherence in the judgement itself regarding the treating of the resignation letter as, according to the learned counsel, in fact, there was no resignation. When this judgement was being dictated, the learned counsel pointed out that he used the word 'contradiction' in his arguments. Be that as it may, we have gone through the judgement minutely and also read paras. 8 and 9 of the review application. In fact, there was a resignation letter dated 18.11.1988 produced in the judgement itself. We have given our finding in para.3 of the judgement observing that the letter of resignation was written by the petitioner when she was mentally diseased and this was not a complete letter of resignation. In this context, the provisions of Central Civil Service (Medical Examination) Rules,

1957 were in vogue and reliance was placed on Rule 2(b) which has also been quoted in the judgement. This sufficiently explains our conclusion that the respondents shall pass an order after receiving the medical report about the condition of the applicant at the relevant time. Our conclusion is based on the material on record. The contention of the learned counsel that the Tribunal has entered into administrative arena while giving this direction, is not substantiated at all. It is an after-thought and we do not consider to dilate on this issue regarding the powers of the Tribunal in giving a particular finding as well as the direction in the interest of justice, fairplay and equity. A judgement is restricted to the relief claimed, but it has no limit to the observations ultimately which affect the interests of the parties in the interest of justice.

4. A review against an order lies on three grounds. Firstly, there is an error apparent on the face of the record; when there is undiscovered evidence not to the knowledge of the aggrieved person with due diligence and is required to be relief subsequently, and lastly, on ejusdem genesis. We do not find the case of the applicant falls in any of the above three grounds. The review application is, therefore, totally devoid of merit and is dismissed.

P. T. Thiruvengadam

(P.T. Thiruvengadam)
Member(A)

J. P. Sharma

(J.P. Sharma) 8/12
Member(J)