

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

RA 296/1994 in OA 2459/1989

New Delhi, this 19th day of September, 1994

Shri C.J. Roy, Member (J)

Shri P.T.Thiruvengadam, Member(A)

Shri Hari Kishan
s/o late Shri Jwala Prasad
A.429, Minto Road Qrtrs.
New Delhi-110 001

.. Applicant

By Advocate Dr. Jose P. Verghese

Versus

Union of India, through

1. Secretary

Ministry of Health & Family Welfare
Nirman Bhawan, New Delhi

2. Director General, Health Services

Nirman Bhawan, New Delhi

3. Medical Superintendent

Dr. Ram Manohar Lohia Hospital
New Delhi

4. The Chief Administrative Officer

Dr. Ram Manohar Lohia Hospital
New Delhi

.. Respondents

By Advocate Shri M.K. Gupta

O R D E R (by circulation)

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

The applicant has filed this RA against the order passed by us on 29.7.94 in his OA 2459/89, the operative portion of which is as follows;

"12. Summing up, it is clear that the applicant neither cooperated with the inquiry officer, nor he filed the list of witnesses - which he was allowed to do - nor he produced the lady alleged to be his wife in respect of charge (iv). He also failed to show evidence that the lady was his wife, who was the best witness. In the circumstances, we have no hesitation to hold that the charges framed against the applicant stand fully proved. The

applicant has failed to make out a case for our interference. The OA is therefore liable to be dismissed which we do so. No costs."

2. The applicant has filed the RA on the ground that the Tribunal has not passed any order in respect of the pending appeal alleged to have been made by him on 9.1.89 to the respondents followed by several reminders, which he claims to be an error on the face of record of the judgement dated 29.7.1994.

3. In this connection, it is relevant to mention here that though we have stated in the opening para of the judgement that "He says that he preferred an appeal on 9.1.89 which is yet to be disposed of. He sent several reminders after that, the last one being on 12.9.89, but he alleges that his appeal has not been disposed of so far", in para 3 we have also stated that "The respondents have filed their reply denying the averments made in the applicant. They admit that the appeal of the applicant is under consideration under Rules and therefore the applicant has not exhausted the departmental remedies". It is also a fact that neither the applicant has made this point as one of the grounds for filing the OA nor he has prayed for any direction on this point. We also note that the OA has been filed more than six months after filing the appeal.

(2) (2)

4. As per Order 47, Rule 1 of CPC, a review application can be filed only (i) when some new material which is not available with the applicant at the time of the hearing and that comes into his possession subsequently and which has a bearing on the case, or (ii) that there is an apparent mistake on the face of the record that has crept in the judgement or (iii) if there is any analogous ground. None of these things is noticed in the present RA.

5. Also, as per AIR 1975 - SC 1500, a review of the judgement is a serious step and a reluctant resort to it is proper only where a glaring omission or a patent mistake or a grave error has crept in earlier by judicial fallability.

6. In the review petition, one of the grounds taken is that para 12 of the order states that "We have no hesitation to hold that the charges framed against the applicant stand fully proved" and such a statement is incorrect when admittedly Article III of the charge is only partially proved. While we admit the technical correctness of this ground, we hold no 'grave error' has been caused to the detriment of the applicant or there is any 'patent mistake'. Hence, this ground by itself does not warrant a review.

7. While delivering the above stated judgement, we had patiently heard the arguments and averments made by both the counsel and carefully gone through the records as well as the departmental file made available to us. By merely stating that the Tribunal has not given any direction regarding disposal of the applicant's pending representation(s), does not give the applicant any ground to come with a review and to claim/there is an error apparent on the face of the judgement. Besides, a review can not be converted into an appeal by reurging the same point again and again. In the circumstances, we have no hesitation to hold that the applicant has not made out a proper case

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(23) (5)

for the review.

8. We, therefore, dismiss the Review Application devoid of merits with no order as to costs.

P.T. Drs
(P.T. Thiruvengadam)
Member (A)

MSF
(C.J. Roy)
Member (J)

/tvg/