

Central Administrative Tribunal
Principal Bench, New Delhi.

RA-45/95 &
MA-408/95
OA-1040/90

New Delhi this the 7th day of December, 1995.

Hon'ble Sh. A.V. Haridasan, Vice-Chairman(J)
Hon'ble Sh. B.K. Singh, Member(A)

1. Sh. Babu Singh,
S/o Sh. Ram Singh.
2. Sh. Andrew Jacob,
S/o Shri C. Jacob.
3. Sh. Battulal Meena,
S/o Sh. Umrao Meena.
4. Sh. Netar Pal Singh,
S/o Sh. Kale Singh.

Review Applicants

(through Sh. B.S. Mainee, advocate)

versus

1. Union of India,
through the General Manager,
Northern Railway,
Baroda House,
New Delhi.
2. The Divl. Railway Manager,
Northern Railway,
State Entry Road,
New Delhi.

Respondents

(through Sh. P.S. Mahendru, advocate)

ORDER(ORAL)
delivered by Hon'ble Sh. A.V. Haridasan, V.C.(J)

This review application seeking a review of the order dated 20.10.94 in O.A.No.1040/90 has been filed on behalf of four persons, namely, S/Shri Babu Singh, Andrews Jacob, Battu Lal Meena and Netarpal Singh. The original application was filed by 15 applicants claiming regularisation with effect from the date of ad hoc promotion and seniority. While in the verification form and in the Vakalatnama, the above named persons had signed in the cause title of the

O.A., the names of these 4 persons were missing and instead ~~of those~~, the names of 4 other persons were added. These four persons according to the review ~~petitioners~~ ^{applicants} had nothing to do with the case.

2. After considering the rival contentions of the parties, the Tribunal vide its order dated 20.10.94 allowed the application and granted the relief in favour of the applicants whose names were there in the array of applicants. The learned counsel for the applicants states that inadvertently the names of 4 petitioners were not added in the cause title by the clerk of his office. These persons have moved this review application praying that the final order may be reviewed granting them also the benefit which was given to the remaining applicants in the original application. The non-inclusion of their names in the cause title being a mistake, the review applicants contend that it is in the interest of justice that the mistake be rectified.

3. As the review application has been filed beyond the period of limitation prescribed, a misc. application for condonation of delay has been filed alongwith an affidavit filed by Sh. Andrew Jacob, one of the review applicants.

4. The review application is opposed by the respondents who have filed a detailed reply.

5. We have heard the learned counsel of the parties.

Am

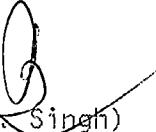
6. Sh. Mainee invited our attention to the ruling of the Hon'ble Supreme Court AIR 1981 SC 1400 as also the decision in the case of S. Nagaraj & Ors. Vs. State of Karnataka reported in JT 1993(5) P.27 wherein the Hon'ble Supreme Court has held that when the mistake is apparent, the court shall in exercise of powers rectify the mistake and should not be shy to correct its own error. The facts and circumstances of the cases under citation are totally different from the facts of the present case. If it had been brought it in the review application that an error has been committed by the Tribunal, this Tribunal would not be shy to undo the mistake and render its justice. The learned counsel for the applicants stated that even if the mistake was committed by his office, the same principle would come to rescue of the petitioners in getting justice. Here it cannot be said that the order is erroneous because the Tribunal was concerned with the rival contentions of the parties to the proceedings. The parties to the proceedings are those whose names occur in the cause title. The respondents are guided by the cause title in preparing their reply in regard to the rights of individual applicants. Since the names of 4 persons who now claim review of the order were not in the cause title, it is not possible to give the benefit of the judgement passed in OA-1040/90 to them. Therefore, the order does not suffer from any error apparent on the face of record nor there is any circumstance which warrant a review of the order. The learned counsel for the applicants states that since the mistake has been committed by his

office, these persons should not be allowed to suffer.

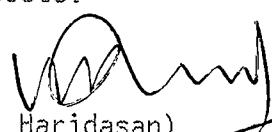
It is true that a person should not be made to suffer for a mistake committed by his lawyer or lawyer's office, but the proper course in such a case would be to seek the amendment of the original application as also the judgement. It may also be open for them to file a fresh O.A. seeking condonation of delay for the reason which would be apparent, in the proceedings in the original application as also in the review application. We are of the view that this course is still open for the review applicants.

7. In the light of what is stated above, we are of the considered view that the applicants are not entitled to seek review of the order as sought by them, hence the review application is dismissed. Needless to say that it will be open to them to seek appropriate remedy in accordance with law in the light of what is observed above.

There will be no order as to costs.


(B.K. Singh)

Member (A)


(A.V. Haridasan)

Vice-Chairman (J)

/vvv/