

Central Administrative Tribunal
Principal Bench, New Delhi

R.A.No.114/95 in
O.A.No.2587/90

New Delhi this the 26 day of July, 1995.

Hon'ble Shri S.R. Adige, Member (A)
Hon'ble Dr A. Vedavalli, Member (J)

1. Shri Raghbir Singh,
S/o Shri Niranjan Singh
2. Shri Neki Ram
S/o Shri Kundan Singh Applicants

VERSUS

UNION OF INDIA, THROUGH

1. The General Manager,
Northern Railway,
Baroda House,
New Delhi.
2. The Divisional Railway Manager,
Northern Railway,
Ambala.
3. The Divisional Railway Manager,
Northern Railway,
State Entry Road,
New Delhi. Respondents

JUDGEMENT
(By Circulation)

(By Hon'ble Dr A. Vedavalli, Member (J))

The present Revision Application is filed under Section 22 of the Administrative Tribunals Act 1985 and Order 47 Rule 1 of the Code of Civil Procedure 1908, against the order of this Tribunal dt 24.3.95 in O.A.No.2587/90 (Vide Annexure R-I).

2. The applicant has sought review of the aforesaid judgment raising the ground of errors apparent on the face of the same due to non-consideration of (i) the judgment of the



Supreme Court in Narender Chadha's case (AIR 1986 SC 49) which is stated to have been quoted and relied upon by his counsel and (ii) the regularisation of three incumbents who are stated to have been junior to the applicants, after their application was allowed by this Tribunal in the case of Shri Ashok Kumar and Others Vs Union of India & Others.

3. On the above ground the applicant has prayed that the aforesaid judgement of the Tribunal may be reviewed giving directions to the respondents to regularise the services of the applicants from the date of their adhoc promotion in class three post with all consequential benefits including promotion etc.

4. The present Review Application is being disposed of by circulation.

5. We have considered the Review Application and all the papers placed on record carefully.

6. The grievance of the applicant Shri Gaghbir Singh and Shri Neki Ram (who were appointed as Khalasis in Class-IV post in Northern Railway on 25.9.60) in O.A. No.2587/90 is that they have been working as Fuel Inspectors (Class-III post) w.e.f. 5.2.70 to 30.9.73 respectively on adhoc basis, and in spite of the direction given by this Tribunal earlier in





another O.A.No.1368/90 in their judgement dated 30.7.90 (extracted in Para-3 of the judgement dated 24.3.95 in O.A. No.2587/90) neither any decision was taken nor was it communicated by Respondent No.1 (General Manager, Northern Railway, New Delhi) to the applicants.

7. The Respondent No.1 (General Manager, Northern Railway) and Respondent No.3 (Divisional Railway Manager, New Delhi) have not filed any reply to O.A.No.2587/90 and the reply filed by Respondent No.2 (Divisional Railway Manager, Ambala) also did not indicate the latest position in regard to the compliance of this Tribunal's earlier judgment dt. 13.7.90 in O.A.No.1368/90. This Tribunal on a careful consideration of the matter and in a special facts and circumstances of the case by its order dated 24.3.95 had given one more opportunity to the Respondent No.1 to comply with the directions given by this Tribunal in the aforesaid earlier judgement dated 13.7.90 in O.A.No.1368/90 and directed Respondent No.1 to take a decision as directed by this Tribunal earlier, if not already taken in the matter and pass a speaking order thereon and communicate the same to the applicant within a period of one month from the date of receipt of a copy of the order.



(4)

8. It was also further directed that in case Respondent No.1 fails to take a decision and communicate the same within the period as directed above, the applicant will be at liberty to approach this Tribunal.

9. The applicants have stated that a copy of this Tribunal's order dated 24.3.95 in O.A.No.2587/90 was received by them on 5.4.95. As per the Registry's report Respondent No.1 received a copy of the said order on 6.4.95. It is thus noticed that the period given for compliance of this Tribunal's order was still available to the respondent at the time of filing of this R.A by the applicants on 25.4.95. The applicants seem to be very much apprehensive about the attitude of Respondent No.1 and have stated in their Revision Application (Vide Para 5 (c)) inter alia that:

" Indifference displayed by the General Manager, Northern Railway, in not complying with the earlier directions of this Hon'ble Tribunal and not filing the reply to the present petition will invariably put the petitioner once again to undergo the ordeal of filing a 3rd petition to claim the same relief for which they are claiming for a number of years and for which the Divl. Rly Manager, Northern Railway, had recommended their case to the General Manager. The attitude of the Respondent No.1 is a glaring proof that he will not take the decision within one month period as allowed by this hon'ble Tribunal and ultimately the case will be decided by this hon'ble Court in accordance with the law as declared by the Hon'ble Supreme Court in Shri Narender Chadha's case and repeatedly followed by this Hon'ble

(5)

Tribunal. The petitioners believe that any further opportunity given to the General Manager, Northern Railway will result only in harassment, hardship and mental loss to the petitioner."

10. No information as to the compliance/non-compliance of this Tribunal's order dated 24.3.95 has been furnished by the applicants and it is not known as to the factual position in this regard.

11. Be that as it may, we have considered the grounds raised by the applicants in this Revision Application on merits.

12. Re ground No.1 i.e. error apparent on the face of the order due to non-consideration of the decision in Narender Chadha's case we find that the applicants have not been able to establish the basis for the said contention since, inter alia, by their own admission, that decision and other decision (vide Para 5 (c) of the R.A. extracted in Para 5 (Supra)) would be considered at the time of the decision ultimately in case of non-compliance of this tribunal's orders by Respondent No.1 as apprehended by him and the application of that decision or any other decision in that matter is hypothetical and is also premature at this stage as the matter regarding regularisation etc is pending before the Respondent No.1 as per the direction given by this Tribunal in its earlier judgement dated 13.7.90 in O.A.No.1368/90 and the judgement dated

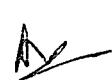
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24.3.1995 in O.A.No.2587/90. In fact, the application of that case does not arise at all at this juncture as this Tribunal in its judgement dated 24.3.95 in OA.No.2587/90 has not given any final decision on merits and has given only one more opportunity to respondent No.1 with directions (vide para-7 supra) while disposing of the matter.

13. In view of the above, we are of the opinion that the said ground is without any basis and is, therefore, untenable in the eye of law.

14. Re ground No.2 i.e. as to the non-consideration of the decision of the Tribunal stated to have been given in the case of Shri Ashok Kumar & Ors. alleged to be juniors to the present applicants we find that the applicants have not even bothered to give O.A. No.2587/90 of that case and have left the space blank (vide Para-5(e) of RA and have not filed a copy of that decision either with the present R.A. or with O.A.No.2587/90. This itself indicates the casual and flippant manner in which the above ground has been raised in the R.A. Consideration of a document when it was never produced, obviously would never have arisen at the time the decision of this Tribunal rendered on 24.3.95 and the question of its review of this kind of a ground is itself out of question.



(7)

15. The above ground in our view in the circumstances stated above is unsustainable under the law.

16. The legal position regarding the grounds on which a review of this Tribunal's order can be sought is well-settled in a catena of decisions by the Hon'ble Supreme Court and this Tribunal.

17. In a recent decision of the Full Bench of this Tribunal (Ernakulam Bench) in J.Solaman & Ors. Vs Union of India & Ors. (1995 29 ATC (FB) 252), it was observed that:

" The scope of review has been defined under Order 47 Rule 1 CPC. The review applicants have not alleged nor even produced any fresh evidence which was not in their knowledge at the time the Full Bench heard the Original Applicants. Merely stating that there is error apparent on the face of the judgement is not sufficient. The review applicants should have pointed out as to the error which has crept in the judgement under review. The Hon'ble Supreme Court in the case of Chandra Kanta v. Sheikh Habib has laid down the law that review application cannot be utilised for re-arguing the case traversing the same ground. Review of judgement is serious matter. The resort to review the judgement should only be made when there is a glaring omission, on apparent mistake, or grave error which has crept in by judicial fallibility. The Tribunal also in the case of Anil Kumar Bose v. Presidency Postmaster has held that a party is not entitled to seek a review of the judgement delivered by this Court merely for the purpose of rehearing and fresh decision of the case."

18. In view of the above facts and circumstances of this case and the legal position stated above we are of the opinion that the applicants have failed to establish any error apparent on the face of the judgment dated 24.3.95 in O.A.2587/90. Neither have they produced any new and important matter or evidence which after the exercise of due diligence was not within their knowledge or could not be produced on account of some mistakes at the time when the aforesaid judgment was passed. No other sufficient reason requiring review was also spelt out by the applicants.

19. In view of the above discussion we are of the view that the Review Application is devoid of any merit. It is, therefore, dismissed on merits by circulation at the admission stage.

We Order accordingly.

A. Vedavalli 26/7/95
(DR. A. VEDAVALLI)
MEMBER(J)

S.R. Adige
(S.R. ADIGE)
MEMBER(A)

/sss/