

(12)

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH: NEW DELHI

...

RA...227 of 1994
in
OA. 2267 of 1990

Dated New Delhi, this/5th day of September, 1994

Hon'ble Mr Justice S. K. Dhaon, Acting Chairman
Hon'ble Mr B. K. Singh, Member(A)

Union of India through

1. The General Manager
Northern Railway
Baroda House
NEW DELHI
2. The Chief Claims Officer
Northern Railway
Claims Office
N.D.C.R. Building
NEW DELHI

BY ADVOCATE: Shri R. L. Dhawan

VERSUS

Shri Ram Kumar Sharma
S/o Shri Ram Kishan Sharma
Ex-Head Clerk
C.D.A. Section, Claims Office
Northern Railway
N.D.C.R. Building
NEW DELHI

... Review
Applicants

... Respondent

O R D E R

(By circulation)

Mr B. K. Singh, M(A)

I have perused the order and judgement in
OA. 2267/90 Ram Kumar Sharma as applicant Vs UOI
through General Manager, Northern Railway and
Chief Claims Officer, Northern Railway, New Delhi
as respondents. The operative portion of the
judgement reads as follows:-

"This application succeeds in part. The appellate
order dated 28.11.89 as communicated to the
applicant by the Senior Commercial Officer(Claims)
is quashed!"

Contd...2

2

2. The Tribunal does not have any inherent power of review. It exercises the power of review under Order 47 Rule 1 read with Section 114 of CPC. The provisions contained therein are that Civil Courts have the power to review their decisions on the following grounds:-

- (i) Discovery of new and important fact or evidence which, after the exercise of due diligence, was not within the knowledge of the review applicant or could not be produced at the time of hearing or when the order was made; or
- (ii) Some mistake or error apparent on the face of the record; or
- (iii) For any other sufficient reason (which has been interpreted to be analogous to other reasons specified in order 47 Rule 1 or Section 114; or
- (iv) It can be filed by a third party which was not impleaded as a party and is affected by the decision and order contained in the judgement.

3. A perusal of the judgement will indicate that there is no patent error, factual or legal, and there is no new piece of evidence or discovery of an important matter which was not placed before the court when the matter was decided. The pleadings on record also supported the order passed by the Tribunal. The operative portion of the order simply quashes the order of the appellate authority being non-speaking and on technical grounds. It has not ordered any reinstatement


Contd...3

(300)

or payment of backwages and it also does not restrain the respondents from initiating proceedings if the situation so warrants. If an order is quashed on technical grounds, the respondents are always free to start disciplinary proceedings after ^{affording} reasonable opportunity to the applicant and to pass fresh speaking orders. The principle of natural justice implies three things: (i) the charges served on the delinquent employee must be clear and not vague; (ii) the charged employee must be given full opportunity to state his case and should be given all the documents and list of witnesses to be relied upon and also he should be given the opportunity to cross-examine the prosecution witness and to produce his own defence witnesses in support of his case; and (iii) the disciplinary and appellate authority ^{must} pass speaking orders. If any of these ingredients are missing while passing the final orders by the disciplinary/appellate authority, the orders are liable to be quashed on technical grounds. In such a situation it does not refrain the respondents from moving afresh taking into consideration the aforesaid facts which are ^{the} back-bone of the principles of natural justice.

4. For a Review Application to succeed it must fall within the four corners of Order 47 Rule 1.

We do not find that the present Review Application falls within the parameters laid down in Order 47 Rule 1 and as such the same is being summarily rejected under Order 47 Rule 4(1) by circulation.


(B. K. Singh)
Member(A)


(S. K. Dhaon)
Acting Chairman

dbc