

Central Administrative Tribunal
Principal Bench, New Delhi

R.A.No.326/94 in
O.A.No.1575/90

New Delhi this the 16th day of March, 1995.

Hon'ble Shri J.P. Sharma, Member (J)
Hon'ble Shri B.K. Singh, Member (A)

Shri Hotu Ram,
S/o Shri Punnu Ram,
H.No.132-C, Vivek Vihar,
Delhi. Review Applicant/Respondent No.1

(By Advocate :Shri Malik B.D. Thareja)

Versus

Union of India, through

General Manager,
Northern Railway,
Baroda House,
New Delhi. Respondent/Applicant

(By Advocate :Shri Shyam Moorjani)

JUDGEMENT
(By Hon'ble Shri B.K. Singh, Member (A))

This R.A. 326/94 has been filed against the judgement and order in O.A.No.1575/90 decided on 22.08.1994.

In the Original Application, the General Manager, Northern Railway had challenged the illegality, propriety and correctness of the Order dated 21.12.89 passed by the Presiding Officer of the Central Labour Court Delhi in which the General Manager had been directed to pay to the first Respondent a sum of Rs,15,724/- within two months from the date of the Order as O.T.A. to the applicant before the Labour Court. The applicant appeared before the Tribunal as first Respondent. He had retired from the service on 31.10.83, while working as Chowkidar in Rest house in I.U.W. Ghaziabad. The O.T.A. related

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to the period from 1.8.1974 to 6.4.77. The Division Bench considered the contentions on behalf of the General Manager, Northern Railway and quashed the order of the Presiding Officer on two grounds namely; the delay and laches and the jurisdiction of the Labour Court to determine the issue involved in the case while acting under the Provisions of 33-C(2) of the I.D. Act, 1947.

The settled law is that Labour Court can compute the claims determined by either award given by a Competent Authority or based on settlement between the parties. The claims must be determined first before the computation can take place. The Labour Court is not vested with the power of adjudication as regards the disputed claims and entitlement. The Tribunal held the view that the Labour Court could have decided this issue only on a reference made U/s 10 of the I.D. Act.

On these grounds the application of the General Manager was allowed and the orders passed by the Presiding Officer of the Labour Court was quashed.

A perusal of the order of the Labour Court indicates that the O.T.A. was calculated on the assumption that the Chowkidar worked for 24 hours. This inference was drawn on account of deployment of another person w.e.f. 7.4.1977. This assumption also is not correct. How one can put in 24 hours of work and that too for a period from 1.8.74 to 6.4.1977. It is also a fact that the Bungalow peon and

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Chowkidars of Rest House have been excluded from the category where the working hours have been regulated by the Railway Board. They may work, if a guest arrives, If there is none, they can relax. Therefore, the entire major premise on which the OTA was granted itself is fallacious. However, we are not concerned with the merits of the case.

This Tribunal is not vested with any inherent power of review. It exercises the power under Order 47 rule 1 of the CPC which stipulates that a review can be permitted only when there is an error apparent on the face of the record. The error may be legal or factual. There is no error as such. However, there is only one correction . . . needed . . in para 4, which may be read as follows;

"When the application came up for final hearing Shri Shyam Moorjani appeared for the applicant. None is present for the Respondents. We have carefully gone through the pleadings and have heard the counsel for the applicant."

Beyond this we do not find any error whatsoever which needs correction. It is a fact that while dictating the P.A. who had come from Hyderabad confused between Shyam Moorjani, Counsel appearing for the applicant with Shri Malik B.D. Thareja and hence on account of that confusion certain lines in the paragraph were wrongly typed. The correction as suggested above, will be made in the Order.

The second ground on which the review can lie is the discovery of an important piece of evidence or document which in spite of due diligence was not within the knowledge of the Review Applicant at the

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time of hearing or when the order was made. A review is not for fresh hearing, and the Review Applicant has not been able to produce ^a new document or a new piece of evidence which can warrant review of the judgement and order dated 22.8.1994. There is no other ground or cause to review the judgement already passed by the Tribunal. Thus the Review Application fails and is dismissed, leaving the parties to bear their own costs.


(B.K. Singh)
Member (A)


(J.P. Sharma)
Member (J)

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