

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI

(15)

R.A. NO. 72/93 in
O.A. NO. 2741/91

DECIDED ON : 19.4.93

Shyam Kishore Pathak ... Review Applicant

-Versus-

The General Manager, Northern
Railway, New Delhi & Anr. ... Respondents

CORAM :

THE HON'BLE MR. P. C. JAIN, MEMBER (A) (NOW VC (A)

THE HON'BLE MR. J. P. SHARMA, MEMBER (J)

ORDER (BY CIRCULATION)

Hon'ble Shri J. P. Sharma, Member (J) :-

The applicant has preferred this review application against the judgment dated 4.2.1993 in O.A. No. 2741/91. The said O.A. was dismissed as barred by time as the relief claimed by the applicant was "That the order of oral discharge from service of the applicant as Khallasi be quashed, applicant be instated back in service as Khallasi with all consequential benefits till the date of joining, or may pass any other order or orders as may be deemed fit and proper."

2. The O.A. was filed on 30.10.1991 and the stand taken by the applicant was that he was not allowed to join his duty w.e.f. 12.9.1983 and on 14.9.1983 he was orally informed that he has been discharged from service on account of the pending criminal case. The application was held to be barred by time and reliance had been placed on the judgment of the Hon'ble Supreme Court in the case of S. S. Rathore vs. State of M.P.—AIR 1990 SC 10 and on the provisions of Section 21 (1) of the Administrative Tribunals Act, 1985. The applicant had also filed an M.P. for condonation of delay (MP-3632/91) but that

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too was rejected as it did not disclose any reasonable and sufficient cause to substantiate that the applicant was prevented from filing the O.A. in time and could only file the same on 30.10.1991.

3. In this review application, the applicant has also referred to a document dated 21.5.1986 issued by the Divisional Office, Northern Railway on the subject of screening result of Electric Khalasis/Substitutes working in the Train Lighting, Power, Construction, MTP over Delhi Division. No tangible reason has been shown as to why this document was not filed earlier along with the O.A. which has been filed five years after this screening result on 30.10.1991. For admitting any document in the review application, it has to be shown that with due diligence the same was not within the knowledge of the concerned person and he could not have access to the same. No such specific reasons have been detailed in the review application. Even the result of the screening would not make the present application within limitation as the applicant has claimed the relief of reinstatement from the date of his alleged oral discharge, w.e.f. 24.9.1983.

4. The applicant has also taken in the grounds of review the help of the circulars of the Railway Board - NRSN 9314 dated 12.6.1987; NRSN 7671 dated 4.9.1980; NRSN 7677 dated 22.10.1986; and NRSN 9394 dated 14.8.1987. A perusal of the aforesaid circulars of the Railway Board as detailed in the grounds of the review application does not help the applicant at all. The relief claimed in the R.A. is for reinstatement w.e.f. 24.9.1983 while the above circulars of the Railway Board relate to maintenance of the casual live register of re-engagement of casual labour on the basis of standing and seniority of work

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in the Railways either in the construction side or in the regular line. The applicant has not at all referred to any of such facts nor has prayed for any relief on that account. He cannot expand the reliefs already claimed in the O.A. and thus re-open the decided matter. As per the provisions of Order XLVII, Rule 1 of the Code of Civil Procedure, a decision/judgment/order can be reviewed :

- (i) if it suffers from an error apparent on the face of the record; or
- (ii) is liable to be reviewed on account of discovery of any new material or evidence which was not within the knowledge of the party or could not be produced by him at the time the judgment was made, despite due diligence; or
- (iii) for any other sufficient reason construed to mean "analogous reason".

5. The present case is not covered by any of the above grounds. The review application is, therefore, totally devoid of merits and rejected as such, by circulation.

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(J. P. Sharma)
Member (J)

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(P. C. Jain)
Member (A)
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