

CENTRAL ADMINISTRATIVE TRIBUNAL

PRINCIPAL BENCH

(32)

...  
R.A.No.148 of 1995 in O.A. No.1703 of 1991

Dated New Delhi, this 30th day of May, 1996.

HON'BLE MR K. MUTHUKUMAR, MEMBER(A)

Ajmer Singh  
R/o A-30, Cosy Apartments  
Plot No.20, Sector-9  
Rohini  
DELHI-110085.

... Review Applicant

By Advocate: Shri B. S. Mainee

versus

Union of India, through  
Secretary  
Ministry of Railways  
(Railway Board)  
Rail Bhawan  
NEW DELHI.

... Respondents

By Advocate: Shri P. H. Ramchandani

O R D E R (Oral)

Heard the learned counsel for the parties.

The short point for consideration in the Review Application is whether there has been any omission or error apparent on the face of the record. The learned counsel for the applicant has brought out the following two points which are vital according to him and would go to substantiate the circumstances in which the learned judge has passed the oral order ex-parte.

(1) The applicant in the application in para-5 has clearly pointed out that there had been arbitrariness and also the denial of natural justice in the respondents having arbitrarily withdrawn the

W

original order allowing the applicant the benefit of pay and, therefore, this particular plea of arbitrariness and denial of natural justice has not been particularly discussed in the order passed by the learned judge.

(2) That the learned counsel for the applicant had filed Vakalatnama on 10.5.94 and therefore the O.A. was listed after the order on 20.1.92 when the pleadings were complete and it was placed on board. The M.A. for expeditious hearing was also rejected by the order dated 3.7.92 and the case had remained on board and was listed for the first time on 5.5.95. In the cause list, the name of the earlier counsel for the applicant had been mentioned and subsequent Vakalatnama had not been brought on record and this aspect had been confirmed by the Registry's notings on the Review Application which is on record here.

In the light of these, the learned counsel for the applicant pleads that the Review Application deserves to be allowed.

The learned counsel for the respondents very clearly points out that the first point adduced by the learned counsel for the applicant does not hold good in view of the fact that the learned judge had in fact pointed out that: "I do not find any acceptable grounds advanced by the applicant in furtherance of the case."

W

The learned counsel for the respondents opposes the grounds of injustice and arbitrariness now advanced by the applicant in the application and also as pointed out in the Review Application.

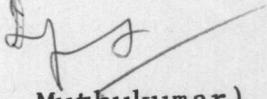
As regards the second point about the omission of the Registry in not showing the counsel's name in the cause list of that day, the learned counsel for the respondents has no comment.

It is a fact that the learned counsel for the applicant had filed Vakalatnama and the Registry had confirmed but had failed to show the name of the learned counsel for the applicant in the cause list thereby causing inconvenience to parties. It is also a fact that this case which had remained on board, had been listed again on 5.5.96 and the ex-parte order was passed by the aforesaid order. Taking this fact into account, I am of the considered view that in the facts and circumstances of the case and also in view of the fact that the Registry had committed an error in the cause list by not showing the name of the learned counsel for the applicant, sufficient arguments on the grounds of denial of natural justice and arbitrariness could not be advanced although the ground was generally taken in the petition, and therefore the learned judge has observed that he had not found any

(35)

acceptable grounds advanced by the applicant in furtherance of the case, and the ground of denial of natural justice has not been specifically discussed in the order.

In the light of the above, this Review Application deserves to be allowed and it is accordingly allowed. The order dated 5.5.95 is recalled. The O.A. may be listed for re-hearing on 25.7.96.

  
(K. Muthukumar)  
Member(A)

dbc