

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH : NEW DELHI

RA 159/93 IN CA 2702/92 .. Date of decision: 31.5.93.

Shri Jai Prakash Vs. Union of India & Others

ORDER

The applicant has filed this review application aggrieved by the Tribunal's judgement delivered on 24.3.1993, the operative part of which is as under:

"In the facts and circumstances of the case, we are not inclined to grant reliefs as prayed for by the petitioner. The application being first barred by limitation and secondly wanting in merit is dismissed. No costs"

The relief sought by the applicant in the main CA was that he could not have been prematurely reverted to his parent department without giving reasonable notice to the parent department and the employee.

2. The points now raised by the applicant in the review applicant are:-

- 1) Repatriation order dated 11.6.90 was straightaway issued without any notice and it was never served on the petitioner or his any family member and the physical movement order also was not served on him or his serving school.
- 2) On receipt of the copy of the Tribunal's order dated 24.3.93 on 29.3.93, the applicant went to his parent department where he was provided with copy of office order No.F2(2)/E.II/89/4680-84 dt. 11.6.90 addressed to five officers but not to Babu Ram Govt. Sr. Sec. School, Shahdara where the applicant was posted, but the copy filed by the Respondent No.4 contains overwriting and seems to be unreliable and made up, which might have been forged, where it shows at Sl.No.7 subsequent development by adding this name after issue. The said Annexure filed by Respondent No.4 has misled the Tribunal when it believed that the order of repatriation was issued to the Babu Ram Model Sr. Secondary School, Shahdara where the applicant was serving.

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3. As per photocopy of the Peon Book (Annexure R-III), the order dated 12.7.90 was delivered to Brahm Prakash, who is not the petitioner.

4. Physical movement order dated 16.7.90 was delivered to Shri B.D.Singh and not to the applicant. So it is not correct and can not be concluded that any notice or order was ever served on the applicant by the Babu Ram Govt. Sr. Model Sec. School, where the petitioner was serving.

5. The applicant has been issued with attendance certificate in Babu Ram Govt. Sr. Model Sec. School upto 31.7.90 and paid salary for July, 90 on 8.8.90 and as such there is no question of his repatriation on 11.6.90.

6. There were all manipulation and concocted story of serving repatriation order and relieving order. These are forged by the respondents.

2. We have carefully considered the above contentions and perused the records of the case.

3. As per Order 47, Rule 1 of CPC, a review application can be filed only (i) when some new material which is not available with the applicant at the time of the hearing and that comes into his possession subsequently and which has a bearing on the case, or (ii) that there is an apparent mistake on the fact of the record that has crept in the judgement or (iii) if there is any sufficient reason. None of these conditions is noticed in the present RA.

4. Also, as per AIR 1975 - SC 1500, a review of the judgement is a serious step and a reluctant resort to it is proper only where a glaring omission or a patent mistake or a grave error has crept in earlier by judicial fallibility.

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The applicant should have raised all these points, now raised, by going to the parent Department and found out the facts when the case was pending in the Tribunal. Now he can not claim them as fresh grounds for filing this review. Also, a review can not be converted into an appeal by reurging the same points again and again. Therefore, we feel that the applicant has not made out a case for review. These points do not appear to us as satisfying the position of Order 47, Rule 1 of CPC to review the case. We hold that this case is barred not only on the point of limitation but also not maintainable on merits.

While delivering the above said judgement, we had patiently heard the arguments and averments made by both the counsel during the hearing and carefully gone through the records and material placed before us and therefore the contention of the applicant that the material and records have not been considered is not acceptable (Reference AIR 1990 SC 535 J.Rangaswamy Vs. Govt. of Andhra Pradesh & Others). Again, in the case of Lt. Col. G.S. Bajwa Vs. UOI & Others 1988(6) ACT-CAT-800 Hyderabad Bench of the Tribunal held that if certain points raised by the counsel are not dealt with in the judgement, the remedy is to file an appeal in accordance with the law but the same issues can not be agitated again in a review application.

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In the circumstances, we are of the opinion
that the applicant has not made out a proper case
for a review. Accordingly, the review application
is dismissed.

purbo
(C.J. Roy)
Member (J)

Subhash
(I.K. Rasgotra)
Member (A)