

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

RA 291/94 IN
OA 1497/92
MA 3060/94 IN
RA 291/94

(14)

New Delhi, This the 16th Day of September 1994

Hon'ble Shri P.T.Thiruvengadam, Member(A)

Shri Karam Dass & Others
Village Nalwa P O Kasuli Employed as Lab Technician
Central Research Institute, Min of Health and Family Welfare
Kasauli. Applicants

By Shri B8 Raval, Advocate

Versus

1. Union of India
Through the Secretary
Ministry of Health and Family Welfare
Government of India
Nirman Bhavan
New Delhi 110001.
2. The Director General of Health Services
Ministry of Health and Family Welfare
Government of India
Nirman Bhawan
New Delhi 110001.
3. The Director
Central Research Institute
Ministry of Health and Family Welfare
Government of India
Kasauli(Himachan Pradesh)

...Respondents

(By Circulation)

O R D E R

Hon'ble Shri P.T.Thiruvengadam, Member(A)

1. MA 3060/94 in this RA for condonation of delay is allowed in the circumstances explained.
2. This RA has been filed for reviewing the orders passed on 4.11.93 in OA 1497/92 and for substituting the word 'directed' instead of the word 'hoped' in the second sentence of the order. The applicants have themselves mentioned that the scope of review is very limited and is circumscribed by Order (47) Rule (1) of the Code of Civil Procedure which has laid down the following conditions on the basis of which

only review can be filed:-

- a) Error apparent on the face of the records
- b) Discovery of new information/documents/
evidence which was not within the possession
of the applicant in spite of due diligence.
- c) Any matter analogous to the above two.

Accordingly the Review applicants have advanced the plea of error on the face of the records. It has been argued that in the order passed on 4th Nov 93 no direction has been given and in every judgement a direction is a must and hence there is a serious error apparent on the face of the records. The use of word 'hoped' instead of the word 'directed' has resulted in no direction being given. I am unable to appreciate the above contention. The order was passed in the light of the submissions made by the respondents that the relief claimed was already under their considerations. The respondents were also hoping that a decision on the relief would be taken by them within a period of 5 months. No prejudice has been caused to the applicants since opportunity has been given to them to approach the Tribunal in accordance with law if no decisions are taken by this time or if the applicants are not satisfied with the decision taken.

3. I have to also observe that the short oral order was dictated in the presence of the learned counsels for both sides and at that stage no amendment was sought.

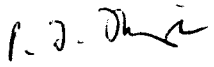
4. It has also been argued that the Review Petition for the order passed on 4th Nov 93 should be treated as Per incuriam. The Hon'ble Supreme Court in A.R. Antulay Vs R.S. Nayak reported in 1988(2)SCC 602 have observed

as under:-

'Per incuriam' are those decisions given in ignorance or forgetfulness of some inconsistent statutory provision or of some authority binding on the court concerned, so that in such cases some part of the decision or some step in the reasoning on which it is based, is found, on that account, to be demonstrably wrong. If a decision has been given 'per incuriam' the court can ignore it.'

No statutory provision or pronouncement by an authority which would be binding this Tribunal in the said case has been quoted. Hence the plea of per incuriam has to be rejected.

5. In the circumstances, the RA is dismissed as being devoid of merits. No costs.


(P. T. THIRUVENGADAM)
Member(A)

LCP