

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI

RA No. 385/1993
in
OA No. 3040/1992

Date of decision 20.3.95

CORAM

Hon'ble Smt. Lakshmi Swaminathan, Member(J)

Union of India & Others ... Petitioners
(By Advocate Shri Romesh Gautam)

v/s

Shri Balwant
s/o Shri Ami Chaudhary
r/o Quarter No. M/3A-B,
Railway Quarter
Near East Cabin,
Sarai Rohilla,
Delhi.

... Respondent

(By Advocate Shri V.P. Sharma)

ORDER

This Review Application No. 385/1993 has been filed by the original respondent (Union of India) seeking review/modification or any other appropriate order in the order dated 1.6.1993 in OA No. 3040 of 1992. Together with the review application, the applicants have filed MA No. 3223 of 1993 for condonation of delay in filing the review application, MP No. 3224 of 1993 for stay of the judgment during the pendency of the Review Application and MP No. 3225 of 1993 for summoning the records of the OA No. 3040 of 1992.

2. The respondents in the Review Application, (Original applicant) has filed reply to the review

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✓ application opposing the same, on the grounds of limitation and that the petitioner is seeking to actually rehear the case, which is not permissible in law. (22)

3. Shri Romesh Gautam, learned counsel for the petitioners and Shri V.P. Sharma, learned counsel for the respondents were heard.

4. It is the contention of the petitioners that there is a patent error in the judgment dated 1-6-1993 in as much as the Tribunal had not stated anything about the rent and payment of electricity and water charges while directing the payment of the amount of gratuity and pension. The learned counsel for the petitioners has relied on judgments in V. Samuel Vs. UOI (OA No. 2807/91 decided on 8.5.1992), T.N. Sinha Vs. UOI (OA No. 1638/93 decided on 9-11-1993), Rajpal Wahi Vs. UOI (SLP No. 7688-91/92) quoted in para 4 of the judgment in the case of V. Samuel (Supra) and the Railway Board circular dated 4.6.1992 (copy placed on record). Shri Gautam, contends that based on these cases, the payment of penal rent was necessary, which the court ought to have directed and this omission is an error apparent on the face of the record which should be reviewed and set aside/modified.

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5. Shri V.P. Sharma, learned counsel for the respondent submits that what the petitioners are in fact attempting to do by the review application is to rehear the whole case which has already been decided

by order dated 1.6.1993 which is beyond the scope of a Review Application, keeping in view (2)
the provisions of Order 47 Rule 1 of the CPC. He relies on R.Kapoor Vs. Director of Inspection (Printing and Publication) Income Tax and Others (JT (1994) (6) SC Page 354 and contends that pension and gratuity is no longer a bounty but is a valuable right of the respondent and the review application should be dismissed.

6. I have carefully considered the submissions of the learned counsel and the records in this case.

7. For the reasons given in MP No.3223 of 1993 the delay in filing the review application is condoned and the same is allowed.

8. It is settled law that the scope of the review application is very limited and it is maintainable only if there is an error apparent on the face of the record or some new evidence has come to the notice of the parties which was not available, or could not be produced despite due diligence or any other sufficient reason, as provided in Order 47 Rule 1 of the CPC. The review application cannot be utilised for rearguing the case or traversing the same grounds. No new ground has been raised in the RA which could not have been raised at the time when the OA was heard. The materials relied upon by the petitioners now could

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have been produced before the Tribunal passed the order on 1-6-1993. The petitioners' grievance is that the order dated 1.6.1993 is erroneous, but that cannot be a ground for review of the order. The applicant has not been able to show that there is any error apparent on the face of the record. The Review Application cannot be permitted for advancement of new arguments or fresh hearing and this Review Application is liable to be dismissed, subject to the following observations/modifications.

9. Keeping in view the observations of the Supreme Court in R.Kapoor's case (supra) the R.A. is disposed of with the following modifications in the order dated 1.6.1993, which shall be inserted at the end of the penultimate paragraph, after the word 'respondents' as follows:-

" This shall be without prejudice to the right of the respondents to recover penal rent/damages for the unauthorised occupation of the quarters in accordance with the law/rules."

10. The registry to carry out the modifications in Para 9 above in the order dated 1.6.1993. *R.A. is dismissed.*

11. The Review Application is disposed of with the above directions.

12. Consequently MP No. 3224/93 and MP 3225/93 are also dismissed.

Lakshmi Swaminathan
(Lakshmi Swaminathan)
Member(J)