

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI

R.A.No. 451/93
in
O.A.No. 1279/92.

New Delhi, the 23.12.93.

Shri Y.P. SURI,
S/o Shri Gian Chand Suri,
Retired Signal Inspector (D)II,
Rewari, Northern Railway,
R/O Flat No. 4, CHS Dispensary,
Shankar Road, New Delhi.

By Legal Practitioner Shri B.K. Batra .. Applicant
versus

1. Union of India through
General Manager, Northern Railway,
Baroda House, New Delhi.

2. Divisional Signal and Tele-communication
Engineer, Northern Railway,
Bikaner.

3. Divisional Personnel Officer,
Northern Railway,
Bikaner.

By Legal Practitioner .. Respondents

The applicant has filed this application seeking
review of the judgment dated 24.8.1993 in O.A. No. 1279/92.

I have gone through the review application and I am satisfied that the review application can be disposed of under Rule 17(iii) of the CAT (Procedure) Rules, 1987 and I proceed to do so.

2. The applicant seeks the review of the judgement on the following grounds :-

(i) That the departmental proceedings instituted against the applicant while he was in service were continued in terms of para 315 of the

Manual of Railway Pension Rules, 1950.

(ii) At the time of his retirement from service, the applicant made over charge of the railway materials to his successor when the shortages and discrepancies were found and he accepted the shortages and discrepancies. Correspondingly, the cost of the shortages of materials were recovered from his death-cum-retirement gratuity.

(iii) This is a case where there is an error of law and error on question of fact as the department could not produce the relevant evidence to the Tribunal so as to enable the Tribunal to give its decision in time etc.

3. It is clear from the judgment that though the Memorandum of charges ^{was} issued as early as 1982, till his retirement in the year 1989, no action was taken to recover the alleged loss. The applicant averred that the handing-over and taking-over charge had been arranged ^{on} w.e.f. 14.1.89 and the same was completed on 8.3.89 after his retirement. He had given the required list of materials which was accepted and got acknowledged by the staff and the concerned Stock Verifier. Despite sufficient opportunities, the respondents did not file their reply though they have conceded that a sum of Rs. 16,134/- was due to the applicant. The same was withheld on account of

certain shortages while the applicant was incharge of the store.

4. The question for consideration is that even if there is any shortages, whether the respondents suo-moto can recover the cost of the materials from the death-cum-retirement gratuity without any notice as a penal amount. In view of the Supreme Court decision in D.V. Kapoor's case, it is clearly held that no amount can be deducted even by way of penalty.

5. Under O. 47 Rule 1 C.P.C., a perusal of the review petition makes it clear that none of the ingredients, referred to above, have been made out to warrant a review. Besides that, the respondents have not made out any new grounds except stating that they could not file the reply on account of misplacement of the file by the earlier counsel, Smt. B. Sunita Rao. Neither the counsel nor the office have filed any counter in this regard and the administrative lapse of the respondents cannot be taken note of. Further, the review filed by the respondents is a belated one and not within time, in accordance with law.

6. In the light of the above, and as mentioned in the judgment, I am convinced that the explanation given

by the respondents for delay in release of the gravity is not justified. Therefore, it can be said that neither an error is apparent on the face of the record nor any new fact has been brought to my notice seeking for a review of the judgment. The review application is, therefore, dismissed.

B.S. Hegde 23/12/93
(B.S. Hegde)
Member (J)