

Open Court

Central Administrative Tribunal,
Allahabad Bench, Allahabad.

Dated: Allahabad, This The 4th Day of May, 2000.

Coram: Hon'ble Mr. S. Dayal, A.M.

Hon'ble Mr. Rafiq Uddin, J.M.

Review Application No. 56 of 1997

in

Original Application No. 1565 of 1993.

Union of India through
Chairman, Station Canteen,
Station Head Quarter,
Agra.

. . . Applicant/Respondent

Counsel for the Applicant/Respondent: Kumari Sadhna
Srivastava, Adv.

Versus

Mahendra Singh son of Sri Chand,
resident of H.No. 52, North Arjun
Nagar, Distt. Agra.

. . . Respondent/Applicant.

Counsel for respondent: Sri D.C. Saxena, A. dv.

Order (Open Court)

(By Hon'ble Mr. S. Dayal, A.M.)

This review application has been filed
seeking recall of order dated 6.9.96 passed by
the Tribunal in O.A. 1565/93 between Mahendra
Singh Vs. Union of India and others.

2. The order of the Tribunal is alleged to
have been referred to by the Administrative

Commandant Station Head Quarter Agra to the Head Quarter Sub area vide letter dated 5.11.96. The Head Quarter Sub- Area Meerut sought some legal opinion which was obtained and supplied to Meerut Sub-Area on 2.12.96 which was sent to Head Quarter U.P. Area Bareilly on 13.12.96 and was further forwarded to Director in Army Head Quarter which forwarded it to Defence Ministry. Consequently the review application could be filed on 31.3.97 which is more than six months after the date of the order of Tribunal of which review has been sought.

3. Kumari Sadhna Srivastava learned counsel for the applicant relied on the judgment of the Apex Court in State of U.P. Vs. Harish Chandra Jain and others 1996 Volume 3, U.P.L.B.E.C. 1808 in which it has been laid down that if a case deserves merit the court should consider the question of condonation of limitation from that perspective. We have, therefore, heard the learned counsels on the merits of review application Kumari Sadhna Srivastava, Adv. present, arguments on behalf of the applicants in the review and Sri D.C. Saxena presented his arguments on behalf of the respondents in review.

4. This review application has been filed on the ground that the Division Bench of the Tribunal fell into error in holding that the application was admittedly later on shifted to C.S.D. side. It is contended that the respondents have made no such admission. It is also contended that it has been held in several decisions that employment in Unit run Canteen is a

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private employment. It is contended that the Apex Court in the case of Union of India Vs. J.V. Sybbal and others in 1996 (3) A.T.C. 194, and in All India Railway Institution Employees Association Vs. Union of India 1990 S.C.C. (L.S.) 323 and in Reserve Bank of India Vs. Their Workmen 1996 Vol. 3 S.C.C. 226 has settled the controversy in respect of employees of non statutory canteens. It is contended that where law of the land is not brought to the notice of the court, it has been held to be a fit case for review by a Division Bench of Allahabad High Court. The learned counsel for the applicant in review has also mentioned that a Division Bench of Allahabad Tribunal in their order in O.A. 474 of 1996 dated 4.12.96 have upheld the contention of the respondents that Unit run canteens which are run and maintained from non public fund have the status of non statutory ~~recognition~~ canteens and therefore such canteens do not fall within the jurisdiction of Central Administrative Tribunal. It was urged by the learned counsel for the applicant in this review that the order of the Tribunal in O.A. 1565 of 1993 should be recalled and the case be dismissed on lack of jurisdiction.

5. We find from the order in O.A. 1565 of 1993 dated 6.9.96 that on facts the Division Bench of the Tribunal had held that initial appointment of the applicant on non C.S.D. side. He was admittedly shifted to C.S.D. side later on and that the applicant was

-4-

working on C.S.D. side at that time, his services were terminated. We have seen the record of the O.A. in this connection and we find that the Annexures to the O.A. show that the applicant was provisionally appointed as Salesman in non C.S.D. section of station Canteen Agra on 1.12.90. By order dated 30.4.92 he was appointed as Chaukidar in Station C.S.D. Canteen by order dated 20.12.92 he was re-mustered to Summary Clerk Salesman with effect from 1.1.93. The order of the Tribunal in O.A. 1565/93 is by way of interpretation of these three orders. The learned counsel for the applicant in review seeks review of the order on the ground that this conclusion of the Division Bench of the Tribunal was defective.

6. The purpose of review is not to examine the question regarding the correctness or otherwise of the conclusion drawn by another bench of the Tribunal. Review can be done only on limited grounds which are by way of error apparent on the face of the record or discovery of new facts which were not available earlier or some other such reason resulting in substantial injustice to the applicant. The conclusion of a bench drawn on the basis of facts on record can not be considered to be falling in any of the three categories. We, therefore find no justification in this Review application, and dismissed the same on grounds of merit as well as on the ground of limitation.

Rajendra
Member (J.)

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Member (A.)

Nafees.