

RESERVED

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD BENCH
ALLAHABAD.

Dated: This the 16th day of July 1999

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

Review Application No. 67 of 1997.

in

Original Application No.887 of 1994.

Nand Kishore Mishra s/o Late B.P. Mishra
R/O village and P.O. Siswan District Allahabad.

. . . Applicant.

Counsel for the Applicant Sri A.K. Sinha, Adv.

Versus

1. Union of India through General Manager,
N. Rly. Baroda House New Delhi.
2. Divisional Railway Manager, N. Rly. Allahabad
3. Division Comm'l. Manager, N.Rly. Allahabad.

. . . Respondents.

Order

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

This review application has been filed by the applicant in O. A. 887 of 1994. Strangely this review application has been filed challenging the judgment on merits.

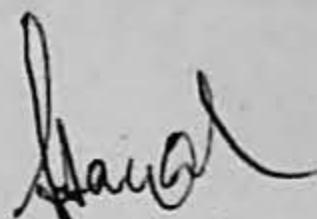
2. The review application has been filed against judgment dated 28.2.97. The applicant in review petition has mentioned that the

judgment was prepared on 10.3.97. This is correct and shown in the photo copy of judgment filed as an annexure along with the Review Application. The Review Application has been filed on 24.4.97 along with a delay condonation application. It has been mentioned in the delay condonation application that a copy of the order had probably been received by his lawyer's Clerk on or after 10.3.97 and he came to know about the order only on 20.4.97 when he came from his village and met his counsel. He, thereafter, engaged another counsel for filing this review application. The delay condonation is sought for without mentioning the provision under Administrative Tribunals Act 1985 or of any rules made thereunder. This review application is not, however, being dismissed on ground of limitation but is being considered on merits.

3. The order in O.A. 887 of 1994 is being challenged on a number of grounds which include non applicability of judgment of Full Bench of the Tribunal delivered in 1996, unauthorised occupancy till the return of the applicant to Allahabad only non cancellation of allotment, non existence of rule regarding damage rent and non adjudication of the relief of gratuity. It is true that the issue of payment of gratuity was not touched presumably because the relief of refund of penal rent was not allowed and gratuity appeared to be linked up with the recovery of penal rent. It appears from the review application that the issue of payment of gratuity is unconnected with the recovery of penal rent which was done from the salary of the applicant and was independent and separate relief. The applicant would be

prevented from claiming this relief in future, if the judgment is not recalled. This would lead to grave injustice in the case of the applicant. Therefore, the order dated 26.2.97 is recalled as it does not deal with the relief of payment of gratuity with interest claimed by the applicant as relief No. 6(B) in the O.A.

This O.A. may be listed before a single member bench for disposal.


Member (A.)

Nafees.