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CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD

C.M. Restoration Appln. No. 139 of 1990

In

Registration T.A. No. 558 of 1987

(Writ Petition No. 2707 of 1980)

Kamla Kant Dubey ..... Applicant

Versus

Union of India & Others ..... Respondents.

Hon. Mr. K. J. Raman, A.M.

Hon. Mr. D. K. Agrawal, J.M.

(By Hon. Mr. D. K. Agrawal, J.M.)

This is an application for restoration of Writ Petition No. 2707 of 1980 registered as T.A. No. 558/87 in the Tribunal against an order dated 2.5.1990 whereby the Writ Petition was dismissed as infructuous. The order dated 2.5.1990 reads as follows :-

" In view of the affidavit of Shri Ganga Prasad Srivastava, Sr. Supdt. of Post Offices, Azamgarh dated 27.10.88 to the effect that the petitioner has been put back on duty, the petition has become infructuous.

The petition is accordingly dismissed as infructuous without any order as to costs."

The above order is an order on merits. The Writ Petition has not been dismissed for default. In the circumstances, an application by way of review had to be preferred by the applicant if he wanted to challenge the correctness of the order. The proviso to Rule 15 of the <sup>Central</sup> Administrative Tribunal (Procedure) Rules, 1987 clearly lays down

D.K. Agrawal

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that if the case is disposed of on merits, the decision cannot be reopened except by way of review. Consequently, the application for restoration is misconceived, the same is liable to be dismissed. It is dismissed accordingly.

*D.K. Grewal*

Member (J)

*1970-11-11*

Member (A)

Dated the 23<sup>rd</sup> July, 1990.

RKM