

Open Court.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD BENCH,

ALLAHABAD.

....

Review Application No. 87 of 1997

In

original Application No. 971 of 1992.

this the 21st day of May 2002.

HON'BLE MR. S. DAYAL, MEMBER (A)  
HON'BLE MR. RAFIQ UDDIN, MEMBER (J)

Sunil Bhatnagar. ... Applicant.

By Advocate : Sri C.P. Gupta. versus.

union of India & Others ... Respondents.

By Advocate : None.

ORDER (ORAL)

BY HON'BLE MR. S. DAYAL, MEMBER (A)

This Review petition has been filed with the prayer condonation of for/delay. The Review petition seeks the review of the order dated 30.1.94 passed by a Division Bench of this Tribunal. The Review petition has been filed on 16.7.97 which is after more than 2 1/2 years of the judgment in the O.A. The delay is sought /sought to be explained by stating that the applicant had/ advice, from several advocates. He had also approached the Principal Bench of this Tribunal to file his case, but was told that the jurisdiction lies with Allahabad Bench of the Tribunal. He filed M.A. under Section 24, which was dismissed on 21.4.1997 and, thereafter, the applicant filed the present Review petition on the ground that since the apprenticeship of the applicant had been terminated and the applicant was residing in Jhansi, therefore, he could file O.A. before Allahabad Bench of the Tribunal. It is contended that rejection of the application on the ground of jurisdiction was an error apparent on the face of the record and, therefore, rectifiable under review jurisdiction of the Tribunal.

(Signature)

2. We have considered the merits of the claim of the applicant. The learned counsel for the applicant has stated that Rule 6 of the C.A.T. (Procedure) Rules 1987 permits the applicant to file an application at a place where the cause of action wholly or in part has arisen and secondly the persons who have ceased to be in service by reason of retirement, dismissal or termination of service may at his option file an application with the Registrar of the Bench within whose jurisdiction such person is ordinarily residing at the time of filing of the application.

3. The learned counsel for the applicant has urged that the applicant joined as Apprenticeship Fireman 'A' on 11.7.1985 at Locoshed (Steam), Kalyan. He was sent for training to Kurla. He took three days leave to attend his ailing grandmother. While on leave, he himself fell ill and was remained under treatment upto 7.2.1986. The applicant was declared fit by the Doctor on 8.2.1986. He was transferred from Bombay to Jhansi vide order dated 20.1.1986. The applicant claims that he went to join at Jhansi, but he was not allowed to do so. The applicant has also mentioned that his apprenticeship had also been terminated on account of unauthorised absence vide order dated 3.8.1985. In the light of the facts of the case, there is a specific finding of the Division Bench of this Tribunal in the order dated 30.11.94 that the cause of action had arisen within the territorial jurisdiction of Bombay Bench and, therefore, the application challenging the validity of the impugned order dated 24.7.91 should be filed before the Bombay Bench of the Tribunal. It has also been mentioned that the representation of the applicant pending with the respondents who had not allowed him to join at Locoshed, Jhansi, in an arbitrary manner has been rejected.

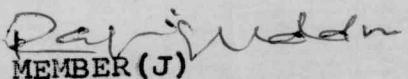
4. The learned counsel for the applicant has placed before us the judgment of the apex court in the case of post Graduate Institute of Medical Education & Research, Chandigarh vs. Faculty Association & Others (1998 SCC (L&S) 961). In the said judgment passed by the Constitution Bench the issue in the Review petition was whether in a single cadre post, reservation for SCs, STs and OBCs can be applied either directly or through the roster in which vacancies are rotated amongst general category and reserved category candidates. This issue was taken-up by the Constitution Bench and the review was allowed. The learned counsel for the applicant states that the review can, therefore, be made against the judgment and order in which there is an error in interpretation of law or provisions of law. The apex court had admitted the review petition because the matter relating to interpretation of constitutional provision was involved, which had been taken before <sup>the</sup> Constitutional Bench. The ratio of this decision is not applicable in the present case because the powers of the Tribunal are different from the powers of the apex court.

5. The learned counsel for the applicant has also relied- upon the decision in the case of S.M. Bhagwat & Ors. vs. Union of India & Others (2001 (2) SLJ 91). In the said case, the review petition against the order of the Tribunal allowing the payment of pecuniary benefits from 1.1.47 to the tune of 50% arrears so worked-out was allowed. By giving the said judgment, the Bombay Bench of the Tribunal had not taken into consideration the judgment of the Supreme Court in the case of Union of India & Others vs. R.D. Gupta & Ors. in Civil Appeal No. 7453/97 passed on 24.7.97. By the said judgment, the apex court had held that the order of the Tribunal in review directing the payment of arrears and allowances w.e.f. 1.1.47 was bad in law. The review petition

was allowed on the ground that there was a binding decision of the Supreme Court, which had been ignored, since the same had not been brought to the notice of the Tribunal at the time of order was passed.

6. In the instant case, the issue of jurisdiction had specifically been considered and finding was that the cause of action had arisen within the territorial jurisdiction of the Bombay Bench of the Tribunal and, therefore, this application ought to have been filed before Bombay Bench of the Tribunal. The learned counsel for the applicant states that this error is rectifiable by this Bench in review jurisdiction.

7. We are not persuaded that this Bench is competent to reverse the findings of a co-ordinate Bench, ~~although the findings may not be inconsistent with the provisions of law~~ we, therefore, dismiss the Review application as lacking in merits.

  
MEMBER (J)

  
MEMBER (A)

GIRISH/-