

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL ALLAHABAD

Allahabad this, the 19 day of September 1996

COARAM: Hon'ble Mr. S. Das Gupta, A.M.

Hon'ble Mr. T. L. Verma, J.M.

REVIEW APPLICATION No. 132 of 1995  
( on behalf of Union of India & others)

IN

ORIGINAL APPLICATION NO. 1363 of 1992

Smt. Kamla Devi, widow of late Bansh Raj  
Sharma, Ex.T.T.E., N.Rly, Allahabad, R/o  
Care of Sri Srinatn Sharma, Lakshmi  
Talkies Campus, Katra, Allahabad.

C/A:

.....Applicant/  
Respondents

Versus

1. Union of India, through the G.M.,  
Northern Railway, Baroda House,  
New Delhi.
2. D.R.M., N.Rly, Allahabad.
3. Sr. D.C.S., N.Rly, Allahabad
4. D.C.S., N.Rly, Allahabad.

C/R: Sri A.K.Gaur, Advocate.

.....Respondents/  
Applicants

ORDER

( Hon'ble Mr. S. Das Gupta, A.M. )

This application has been filed seeking review  
and recall of the order dated 24-8-95 by which the  
original application No. 1363/92 was allowed with  
certain directions.

2. The aforesaid original application was filed  
by the widow of <sup>a</sup>Railway Employee, who was removed  
from service and <sup>who</sup> subsequently met with <sup>fatal</sup> fatal accident.  
The widow had challenged the order of the disciplinary

w/c

authority and the appellate order <sup>which</sup> confirmed the penalty imposed.


3. The respondents had not filed any counter affidavit in the aforesaid original application. Sri S.F.A. Naqvi, Standing counsel for the Railway had accepted the notice on behalf of the respondents and also filed Vakalatnama. However, despite a number of opportunities having been afforded to the respondents, no counter affidavit was filed and after warning the respondent <sup>the</sup> case might be taken up for exparte hearing unless the counter affidavit was filed within the specified period, case was taken up for hearing exparte against the respondents on their failure to comply with the orders for filing C.A. Relying on the decision of the Hon'ble Supreme Court in case of C.S. Raujee versus State of Andhra Pradesh A I R 1964 S.C.692, the Tribunal considered the matter in the light of the unrebutted averments in the O.A. and held that both the order of penalty and the appellate order were liable to be quashed.

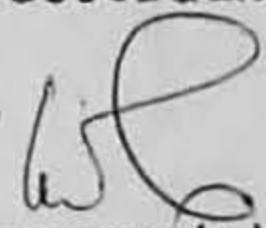
4. The judgment sought to be reviewed was pronounced on 24-8-95. The application for review has been filed only on 1-12-95. The application is, therefore, barred by limitation. The application for condonation of delay has been filed intimating the circumstances in which there has been delay in filing the review application. The explanation given for the delay is wholly unsatisfactory. The ground taken for review are that the judgement and order dated 24-8-95 suffers from manifest error of law and jurisdiction and also on the ground <sup>that</sup> for a client should not suffer due to fault of his counsel and in this case although the parawise comments were given to the counsel for respondents, the counter affidavit could not be filed due to the counsel's fault.

5. It is settled law that the judgement and order already passed can be reviewed only if it suffers from any error apparent on the face of records or if certain new facts are brought out warranting review of the earlier order provided such facts could not be brought out earlier despite due diligence, or for any other analogous reason.

6. It is clear from the grounds taken in the review application that these relate to alleged error of law and jurisdiction on the part of the Tribunal and also alleged fault on the part of the respondent's counsel in <sup>not</sup> filing the counter affidavit. There is no pleading that the order dated 24-8-95 suffers from any error apparent on the face of records. Also, no new facts have been brought out which would warrant review of the order already passed.

7. The review application therefore lacks merit and in any case it is also barred by limitation. The application is dismissed accordingly.

  
MEMBER (J)

  
MEMBER (A)

T.S./