

Union of India & Ors Vs S.J.A Rizvi

O R D E R (By Circulation)

20.1.2003

HON.MR.JUSTICE R.R.K.TRIVEDI, V.C.

HON.MR.S.DAYAL, MEMBER(A)

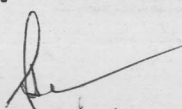
By this application applicants have sought review of the order dated 9.5.02 passed in OA No.23/95. The application for review has been filed on 18.7.02. M.A.2916/02 has been filed seeking condonation of delay. In this case certified copy was received on 27.5.02. The Tribunal was closed on account of summer vacation. If that period is excluded, the delay in filing is of few days. Considering the facts and circumstances and the explanation given, the delay is condoned.

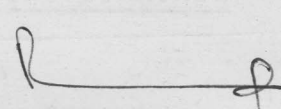
From perusal of the application it is clear that review ^{of order} ~~application~~ has been sought on the basis of the material which was not before the Tribunal when the order dated 9.5.02 was passed. The order was passed ^{on} on the basis of the admission made by the respondents in their counter. Now it has been ^{stated} that from the fresh material it is clear that the authority, who passed the order of compulsory retirement, was competent. The stand taken is contrary to admission made earlier. There is no dispute that provisions of Order 47 Rule 1 of CPC are applicable for exercising the power of review by this Tribunal. If the review is sought from the discovery of new and important matter or evidence it has to be shown that after the exercise of due diligence such material was not within the knowledge of respondents and hence could not be produced at the time when the order was made. There is no such averment in the review application or the affidavit filed that such material could not be filed before the Tribunal even after the

R

exercise of due diligence. In the absence of such plea it cannot be said that there is any error apparent on the face of record.

The review application has no merit and is accordingly rejected.


MEMBER(A)


VICE CHAIRMAN

Uv/