

MA No.827/07

in

Rev. Appl. No.15/06

In

OA No.665/04

24.4.2007Hon'ble Mr. Justice Khem Karan, V.c. :

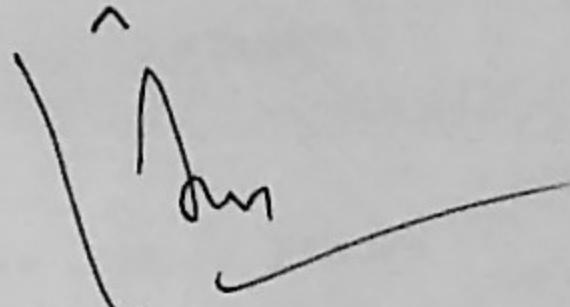
Shri V.K. Pandey appearing for Raj Kumar and Shri O.P. Gupta appearing for the Sunil Kumar.

Sunil Kumar filed one OA No.456/01, for getting compassionate appointment on the death of his father Kashi Prasad. That OA was finally disposed of vide order dated 8.5.2001, directing the respondents to decide the pending representation of the applicant. It appears that after these orders in that OA of 2001 the Railway Department issued two letters and in one of such letters it observed that claim of Smt. Asha Devi instead of Sunil Kumar was more acceptable for compassionate appointment. The applicant filed another OA No.665/04 claiming compassionate appointment taking several pleas. He also referred to the earlier OA and the order passed therein and also annexed a copy of that order. This Tribunal disposed of the OA No.665/04 vide order dated 11.3.2005, directing the respondents to consider the representation of the applicant and in compliance of that representation, the Railway stated taking certain steps.

2. Rajkumar filed one application No.15/06, for recalling the order dated 11.3.2005 taking the ground interalia that Sunil Kumar obtained that order of 11.3.2005 by concealing the fact that earlier had already been rejected.
3. This Tribunal vide its order dated 27.8.2006 issued notices to Shri Sunil Kumar and stayed the operation of the order dated 11.3.2005.
4. Sunil Kumar puts in appearance and filed objection against the same on 13.10.2006. When that recall application came up for orders on 25.1.2007, none appeared for Rajkumar and so after hearing Shri Gupta, counsel for Sunil Kumar recall was rejected. Then Rajkumar moved an application

for recalling that order which too was rejected in default on 16.3.2007. Thereafter, the applicant has moved an application for recalling order of 25.1.2007 and also 16.3.2007.

5. After having heard the parties counsel and perusing the relevant record including the record of OA No.665/04 and other materials placed on the record, the Tribunal is of the view that there are no good grounds for recalling the order dated 16.3.2007 and 25.1.2007. It appears that the applicant Rajkumar has filed initial recall application No.15/06 by stating wrong facts. It was nowhere provided in final order passed in OA of 2001 that the claim of the applicant Sunil Kumar for compassionate appointment was rejected. So Rajkumar wrongly stated in his application No.15/06 that by concealing of factum of rejection, Sunil Kumar filed another OA and succeeded in obtaining the order for disposal of the representation. The dispute appears to be between Sunil Kumar, who is son ^{now} of first wife of deceased and his step mother Smt. Asha Devi and Step Brother Rajkumar. The order dated 11.3.2005 passed in OA No.665/04 was innocuous, simply asking the authority to consider the representation of the Sunil Kumar and it can not be said that Sunil Kumar obtained this order by concealing the fact. So that application was rejected on 25.1.2007. The recall application appears to be nothing but the process of the court, hence it is rejected.


Vice-Chairman

RKM/