

Central Administrative Tribunal
Allahabad Bench, Allahabad.

RA-46/2008 in
OA-375/2006

Allahabad this the 12th day of November, 2008.

Hon'ble Sh. N.D. Dayal, Member(A)

1. Parmeshwar Tewari,
S/o Sh. Sia Ram Tewari,
R/o Sarne P.S. Alinagar,
Distt. Chandauli.
2. Ansar Alam,
S/o Sh. Nadrey Alam,
R/o Sarney P.O. Niamtabad,
Mughalsarai, Chandauli.
3. Ram Dular,
S/o Sh. Shyam Deo,
R/o Sarney, P.O. Niamtabad,
Mughalsarai, Chandauli.
4. Bihari,
S/o Sh. Beni,
R/o Sarney,
P.O. Niamtabad,
Mughalsarai,
Chandauli.
5. Nandu Ram,
S/o Sh. Sree Ram,
R/o Sarney,
P.O. Niamtabad,
Mughalsarai,
Chandauli.
6. Sarfaraj Ahmad,
S/o Md. Jhuri,
R/o Sarney,
P.O. Niamtabad,
Mughalsarai,
Chandauli.

.... Review Applicants
Versus

1. Union of India through
the General Manager,
N.C. Railway,
Allahabad.

2. The Divisional Railway Manager,
N.C. Railway, Allahabad. Respondents

ORDER (By Circulation)

This Review Application (RA) No. 46/2008 arising out of OA-375/2006 has been filed with the prayer that the review be allowed and judgment dated 27.05.2008 set aside, fixing rehearing in the interest of justice.

2. The order in the O.A. was passed in Court where no counsel appeared for the applicants and the respondents were represented by learned counsel Sh. Anil Kumar. Therefore, the matter was taken up under Rule 15 of Central Administrative Tribunal (Procedure) Rules, 1987 and the learned counsel for respondents was heard and the pleadings were gone through.

3. It is contended in the RA that Sh. S.K. Dey, Advocate was out of station and Sh. S.K. Mishra went away to the hospital for medical aid to his son informing Sh. P.N. Rai, who was the counsel for respondents, who had filed counter-affidavit in the O.A. It is stated that Sh. Anil Kumar appeared on that date without filing power and the matter was heard ex-parte. Also that Sh. S.K. Mishra requested for an opportunity to submit the case of the applicants and explained the reason for his absence and it is stated that he was assured that the matter would be considered on submitting RA. It is stated that there was no stop order and in case of default, the O.A. is dismissed in default but because of ex-parte hearing the applicants could not submit the relevant facts and law in support of

their claim. Since a copy of the judgment was received on 30.06.2008 as the counsel was out of Allahabad in the month of June, 2008, the Review Application is within time.

3. A glance at the certified copy of the order passed shows that it has been issued on 30.05.2008. As such the R.A. was to be filed within 30 days but it has been filed on 08.08.2008 without showing sufficient cause and which is well beyond the prescribed period. As such, the R.A. is liable to be dismissed on this account alone.

4. Rule 15(1) of the Central Administrative Tribunal (Procedure) Rules, 1987 lays down that where on the date fixed for hearing of the application or on any other date to which such hearing may be adjourned, the applicant does not appear when the application is called for hearing, the Tribunal may, in its discretion, either dismiss the application for default or hear and decide it on merit. Accordingly, the O.A. has been decided on merit. A mere statement in the R.A. that learned counsel Sh. Anil Kumar did not have power to argue before the Court may not be sufficient to establish the contention. It is not the applicants' case that Sh. P.N. Rai informed the Court during hearing about the message of absence purported to have been given to him. The order passed in the O.A. shows that the matter has been decided after going through the pleadings. Applicants' suggestion that it was assured to consider on submitting R.A. is ill advised and misleading.

5. No error apparent on the face of the record nor any new material has been brought to notice.

(8)

6. It has been held by the Apex Court in **Ajit Kumar Rath Vs. State of Orissa & Ors.** (2000(2)AISLJ 108) that a review cannot be claimed merely for a fresh hearing or arguments as the power of review can be exercised only for correction of a patent error of law or fact which stares in the face without any elaborate argument being needed to establish the same.

7. Finding no merit, the Review Application is dismissed in circulation. No costs.



(N.D. Dayal)
Member(A)

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