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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
AHMEDABAD BENCH

R.A.St, No. 6 OF 1993

in
O.A. No. 301 OF 1989.
T.A. No.

DATE OF DECISION 4-10-1993

The Union of India & Ors. Petitioners
(Orig. Respondents)

Mr. Akil Kureshi, Advocate for the Petitioner(s)

Versus

Mr. R.M. Prajapati, Respondent
(Orig. Applicant)

Advocate for the Respondent(s)

CORAM :

The Hon'ble Mr. N.V.Krishnan, Vice Chairman.

The Hon'ble Mr. R.C.Bhatt, Judicial Member.

1. Whether Reporters of local papers may be allowed to see the Judgement?
2. To be referred to the Reporter or not?
3. Whether their Lordships wish to see the fair copy of the Judgement?
4. Whether it needs to be circulated to other Benches of the Tribunal?

1. The Union of India,
(Through the Secretary to Govt.
of India, Parliament Street,
New Delhi).

2. The Divisional Engineer,
(Trunk and Telex),
Baroda - 390 001.

.... Applicants

(Orig.Respondents)

(Advocate: Mr. Akil Kureshi)

Versus.

R.M. Prajapati,
Badiyadav Society,
At & P.O. Por,
Dist: Vadodara.

.... Respondent.

(Orig. Applicant)

Decision by circulation.

O R D E R

R.A.St.No. 6 OF 93
in
O.A.No. 301/1989

Date: 4-10-1993.

Per: Hon'ble Mr. R.C.Bhatt, Judicial Member.

This review application can be disposed of by circulation. This review application is filed by N.G. Desai, describing himself as Assistant Engineer (Staff) O/O the GMTD Vadodara-18, to review the judgment and order dated 23rd September, 1992 passed by this Tribunal in O.A. 301/89. It is not revealed in this review application as to how the Assistant Engineer (Staff) can file review application on behalf of the respondents. However, without going into that technical defect, we propose to dispose of the review application on the grounds mentioned in it. There is

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also a doubt whether an affidavit in support of this review application is proper or not, because it appears to have been made before a Head Clerk of MAC Tribunal, Vadodara. Apart from that, as observed above, we deal with the grounds mentioned in this review application. The true copy of the judgment in O.A. 301/89 was ready on 12th October, 1992 as appears from the said copy produced by the applicant^s (~~one~~ respondent), therefore the review application ought to have been filed by 12th November, 1992, but it is filed on 29th January, 1993, and therefore, the office has rightly taken an objection that there is a delay of 87 days in filing this review application. The delay is neither explained in the review application nor any separate affidavit is filed to explain the delay nor there is any prayer for condonation of delay and therefore this review application deserves to be dismissed on the ground that it is filed beyond the period of limitation and there is no prayer for condonation of delay.

2. Even apart from that, reading the grounds mentioned in this review application we do not find any error apparent on the face of the record. The applicant in this review application has mentioned that the judgment given in O.A. was placed on the decision in Mohd. Ramzan Khan's case reported in AIR 1991 SC page 471, which has prospective applicability and the same ought not to have applied to the facts of the present case. It is important to note that

this point was not raised at the time of hearing of the O.A. It is also contended by the applicant in review application that in Viswanathan's case reported in 1991 Suppl.(2) SCC page 269, it is clearly held that the judgment of the Hon'ble Supreme Court of India in the case of Mohd. Ramzan Khan is to be given prospective effect and it will not affect the orders passed prior to the date of rendering the said judgment i.e., 29th November, 1990. It is contended in ground 4 of the review application that the original applicant did not have the benefit of the said judgment of Supreme Court of India. It seems that there is an error in word 'original applicant' mentioned in that ground and it ought to have been 'original respondents'. As observed above, at the time of hearing of the O.A it was never pointed out that the decision in Mohd. Ramzan Khan case is to be given prospective effect nor it was pointed out that there was a judgment 1991 Suppl.(2) SCC page 269. If the said judgment given subsequently on 6.3.91 by a Division Bench of the Hon'ble Supreme Court was not brought to our notice, the applicant can not say that there is an error apparent on the face of the record by us in following Mohd. Ramzan Khan's case. More over it may be pointed out that there is another decision of the Hon'ble Supreme Court of India subsequently in R.K. Vasisht v/s. Union of India & Ors. (1993) 23 ATC page 444. It is a decision given by the three Hon'ble Judges of the Supreme Court where the

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appointing authority had issued an order on August 14, 1987 dismissing the appellant from service, meaning thereby that the order was passed prior to the date of rendering of the judgement in Mohd. Ramzan Khan case (i.e. 29-11-90). Still the Hon'ble Supreme Court in para 5 of that judgement has followed Mohd. Ramzan Khan's case and the Hon'ble Supreme Court relying on Mohd. Ramzan Khan's case has held that the enquiry report was not supplied to the delinquent in that case prior to the date of rendering of the judgement and the order of dismissal was vitiated. It has to be also added that the decision of the Supreme Court in Ramzan Khan's case was delivered by a Full Bench presided over by Hon'ble Shri Rangnath Mishra, Chief Justice of India. The decision in Arunachalam's case, following the ratio in Ramzan Khan's case, was also delivered by a Full Bench of the Supreme Court also presided over by the Hon'ble Shri Rangnath Mishra, Chief Justice of India and therefore, in our view it is safer to follow this precedent decision of the Supreme Court rendered by a larger Bench.

3 Having considered all the grounds mentioned in the review application as above, we find no error apparent on the face of the record in the judgement given in D.A. by us, apart from the fact that the review application is barred by limitation. Hence the review application is rejected.


(R.C.BHATT)
Member (J)


(N.V.KRISHNAN)
Vice Chairman