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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
AHMEDABAD BENCH

M.A. No. 4 OF 1992 in
R.A. No. 1 OF 1992 in
O.A. No. 45 OF 1989
~~T.A. No.~~

DATE OF DECISION 15-01-1992.

Union of India and Ors. Petitioner

Mr.N.S.Shevde, Advocate for the Petitioner(s)

Versus

Shri K.K.Patel Respondent

Mr.P.K.Handa Advocate for the Respondent(s)

CORAM :

The Hon'ble Mr. M.M.Singh : Member (A)

The Hon'ble Mr. R.C.Bhatt : Member (J)

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 ?

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Union of India & Ors. (Rly.)

...Applicants.

Versus

Shri K.K.Patel

...Respondents.

M.A./4/92

in

R.A./1/92

in

O.A./45/89

Date : 15-01-1992.

Decision by circulation

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

The original respondents of O.A./45/89, are the applicants in the above Review Application. The applicants-original respondents have prayed for the review of the Judgment in O.A./45/89, decided by us on 26th August, 1991. The affidavit in support of the Review Application is filed by one Shri B.B. Kashyap, Senior Divisional Personnel Officer in the ~~Office~~ Office of the Divisional Railway Manager, Western Railway, Pratapnagar, Baroda on on 31.12.1991, i.e., about three months after filing of the Review Application. The Review Application is filed by the applicants on the grounds A to P, of Para-4, of the application. It is mentioned in these grounds that the order passed by this Tribunal is against law, against facts of the case and evidence on record and vitiated by error of law and facts which are apparent on the face of the record, that the Tribunal has

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erred in condoning the delay in filing the Original Application without any documentary proof having been produced by the applicant in support of his case about filing a further appeal to the General Manager against the orders of the Appellate Authority, and the other grounds mentioned are that the Tribunal has erred in relying upon the Judgment of the Hon'ble Supreme Court of India in the case of Union of India and others Vs. Mohamed Ramzankhan reported in JT 1990 (4) SC-456, which has a prospective effect.

The grounds No.D to N, relate to the alleged error of this Tribunal in holding that non-furnishing of report of the Inquiry Officer to the original applicant before the findings of punishment of removal by the disciplinary authority amounted to violation of ^{rules of} Natural justice. This Tribunal has decided the Original Application on the basis of the Judgment of the Hon'ble Supreme Court of India in Mohamed Ramzankhan's case (Supra). In the instant case, no opportunity was given to the applicant to make a representation against the report of the Inquiry Officer in as much as copy of the report was not given to him before the disciplinary authority inflicted punishment on him ^{and hence} the impugned order passed by the disciplinary authority and the appellate authority were quashed and set aside. The applicant has in this Review Application urged that the said judgment of the Hon'ble Supreme Court has no retrospective effect but it has prospective effect.

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2. It is also mentioned in ground -'O', that the Tribunal ought to have considered that the appeal filed by the Union of India in Premnath K. Sharma's case has been admitted by the Hon'ble Supreme Court and stay was also granted.

3. Apart from the fact ^{that} upto the date of the Judgment there was no mention in the arguments of the respondents that the stay was granted by the Hon'ble Supreme Court of India, against the Judgment in Premnath K. Sharma's case, ~~In~~ our opinion, the said ground - 'O', in the Review Application can not be pressed into service by the original respondents before us, for review of our Judgment in O.A./45/89. If Hon'ble Supreme Court has admitted the appeal against the decision given in Premnath K. Sharma and has given the stay as mentioned in the Review Application, that by itself would not amount to a ground for the review of the judgment given by us. The other grounds mentioned in the Review Application are not such by which the original respondents can seek review of our judgment.

4. According to Section-22 of the Administrative Tribunals Act, 1985, provisions of Code of Civil Procedure 1908 have to be followed by the Tribunal for reviewing of its decision. This application is made under Rule 17 of the Central Administrative Tribunal (Procedure) Rules 1987. Order_47, Civil Procedure Code, reads as under : -

"1. Application for review of judgment -(1) Any person considering himself Aggrieved -

- (a) by a decree or order from which an appeal is allowed, but from which no appeal has been preferred,
- (b) by a decree or order from which no appeal is allowed, or
- (c) by a decision on a reference from a Court of Small Causes.

and who, from the discovery of new and important matter or evidence ~~which~~ which, after the exercise of due diligence was not within his knowledge or could not be produced by him at the time when the decree was passed or order made, or on account of some mistake or error apparent on the face of the record or for any other sufficient reason, desire to obtain a review of the decree passed or order made against him, may apply for a review of judgment to the Court which passed the decree or made the order.

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- (2) A party who is not appealing from a decree or order may apply for a review of judgment notwithstanding the pendency of an appeal by some other party except where the ground of such appeal is common to the applicant and the appellant, or when, being respondent, he can present to the Appellate Court the case on which ~~he~~ he applies for the review.

(Explanation :- The fact that the decision on a question of law on which the judgment of the Court is based has been reversed or modified by the subsequent decision of a

7. Having considered all the aspects and having considered Order-47, Rule-1, Civil Procedure Code we find no merit in the Review Application and reject the same by circulation.

8. As the Review Application is rejected, M.A./4/92, filed in Review Application for stay of the implementation of ~~our~~ judgment in O.A./45/89, deserves to be rejected. Thus, R.A./1/92, is rejected and M.A./4/92, in R.A./1/92, is also rejected.

R.C. Bhatt

(R.C.Bhatt)
Member (J)

M.M. Singh

(M.M.Singh)
Member (A)

AIT

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M.A./435/90

in
O.A./45/89

Coram : Hon'ble Mr.P.H.Trivedi : Vice Chairman
Hon'ble Mr.R.C.Bhatt : Judicial Member

15/02/1991

Heard Mr.P.K.Handa and Mr.N.S.Shevde learned advocates for the petitioner and the respondents.

M.A./435/90, for early hearing allowed. The case may be placed for final hearing in the month of April, 1991.

M.A./435/90, stands disposed of.


(R.C.Bhatt)
Judicial Member


(P.H.Trivedi)
Vice Chairman

AIT