

(2)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
AHMEDABAD BENCH

R.A.St.No. 12 OF 1993. in O.A.124/90

AND

M.A.St. 289 OF 1993.

~~P.A.No.~~

DATE OF DECISION 4.10.1993.

Divisional Personnel Officer, Petitioner
(~~Orig~~)

Mr. B.R.Kyada, Advocate for the Petitioner(s)

Versus

Shri H.S. Shekhawat, Respondent

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 ? ✗

Divisional Personnel Officer,
Western Railway, Ajmer
on behalf of Union of India.
(Advocate: Mr. B.R. Kyada)

.. Applicant.

Vs.

Shri H.S. Shekhawat

.. Respondent /
(Orig. Applicant)

ORDER

R.A.St.No.12 of 1993
in
M.A.St.No.289 of 1993

Date: 4-10-1993.

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

O.A.124/90 was disposed of by our judgement dated 20-4-92. The original respondents have sought a review of that judgement in the Review Application.

2. We have perused the Review Application and are satisfied that it can be disposed of by circulation.

3. The application for review seems to have been signed by Shri B.R. Kyada, learned counsel for the applicant, though, strangely, the affidavit in respect of this application has been filed by Shri N.L. Sunder, Divisional Personnel Officer, Western Railway, Ajmer. The Divisional Personnel Officer, Western Railway, Ajmer was not a respondent before us. In what capacity he has filed the affidavit is not clear from the review application. Perhaps, there is a separate notification in the Railways authorising the Divisional Personnel Officers to represent the Union of India, Department of Railways in litigations, though we are not quite certain about this.

4. The Divisional Personnel Officer has also filed M.A.St. 289/93 for condonation of delay. In the view that we have taken in the matter, we allow the M.A.St. and condone the delay and consider the review application on merits.

5. The burden of the review application is that the O.A. has been allowed on the basis of the judgement

14

in Mohd. Ramzan Khan's case (AIR 1990 SC 471) and the order of removal from service has been quashed on the ground that a copy of the enquiry report was not furnished to the original applicant before the disciplinary authority ^Q who found him guilty of charges.

6. The review application states mainly that there is error apparent on the face of the record and more details about this are available in the M.A.St. for condonation of delay wherein it is stated that we have not taken into account the decision of the Supreme Court in A.K.Chatterji Vs. Union of India and SP Vishwanathan Vs. Union of India. There is also a vague suggestion that this was brought to our notice during the arguments.

7. The review application does not cite these judgements as a ground for review.

8. The burden of the above statement is that the Supreme Court has held in SP Vishwanathan Vs. UOI (1991 Supp (2) SCC 269 that the decision of the Supreme Court in Ramzan Khan's case will apply to the orders of the disciplinary authorities passed subsequent to that judgement and that the judgement does not have retrospective effect and disciplinary orders passed before that date cannot be quashed on the basis of that judgement.

9. Therefore, there is an error of law apparent on the face of the record thus calling for a review.


10. Neither the decision of the Supreme Court in S.P Vishwanathan's case nor in the case of AK Chatterji (citation not given) referred to in the petition of condonation of delay was cited before us. The review applicants (respondents) have not even cared to state why they could not bring these judgements to our notice. Therefore, there is no error on the face


5

of the record.

11. That apart, we notice that the judgement in Mohd. Ramzan Khan's case was delivered on 29-11-90 by a Full Bench presided over by the Hon'ble Shri Rangnath Misra, Chief Justice of India. The judgement in Viswanathan case is rendered by a Division Bench on 6-3-91 holding that the judgement in Mohd. Ramzan Khan's case will have only prospective application to disciplinary orders passed after the date of that judgement. However, we find that subsequently, a Full Bench of the Supreme Court presided over by the Hon'ble Shri Rangnath Misra, Chief Justice of India, who was also associated with the decision of Mohd. Ramzan Khan's case, delivered judgement in R.K. Vasisht Vs. Union of India on 4-12-1991 (1993(23)ATC 444) relying on the judgement of Mohd. Ramzan Khan's case in respect of disciplinary orders issued on 14-7-87 dismissing the government employee from service, relying fully on the ratio of Mohd. Ramzan Khan's case. We are of the view that in the light of this decision, it appears that the grounds in the Review Application have no force.

12. We therefore find that the Review Application has no force and accordingly we dismiss it.


(R.C. BHATT)
Member (J)


(N.V. KRISHNAN)
Vice Chairman