

R.A.96/2002 IN O.A.190/1992

Date : 31/12/2002

Mr.C.P.Jadav : Advocate for the Petitioner [s]

Union of India & anr. _____: Respondent(s)

_____ : Advocate for respondent(s)

Hon'ble Mr. D.C.Verma : Vice Chairman (J)
Hon'ble Mr. G.C.Srivastava : Member(A)

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?

**CENTRAL ADMINISTRATIVE TRIBUNAL
AHMEDABAD BENCH, AHMEDABAD**

R.A./96/2002 in O.A./190/1992

Ahmedabad this the 31st December, 2002

**Hon'ble Mr. D.C. Verma, Vice Chairman (J)
Hon'ble Mr. G.C.Srivastava, Member(A)**

1. Shri Maheshchandra C. Gurjar,
2. Shri Dineshchandra C. Khatana,
Both are resident of : 17, Hastinapur
Society, Near Chandkheda Railway Station
Ahmedabad-382470.

.....APPLICANT

ADVOCATE : MR. C.P.JADAV

V/S.

1. Union of India,
Notice to be served through
The General Manager,
W.Rly., Church Gate,
Mumbai
2. The Divisional Railway Manager,
W.Rly., Rajkot Division,
Rajkot.

.....RESPONDENTS

ADVOCATE :

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ORAL(ORDER)

MR. D.C.VERMA : VICE CHAIRMAN(J)

Mr. M.C.Gujar and D.C.Khatana have filed this Review Application with a prayer to review the Tribunal's order dated 22/09/2000 passed in O.A./190/1992.

2. O.A. 190/1992 was decided by a Division Bench of this Tribunal vide order dated 22/09/2000 and the O.A. was dismissed as devoid of any merit. The applicants therein filed a writ petition before the Hon'ble High court, the Special Civil Application(in short SCA) no. 2790/2001 in the case of Mahesh C. Gurjar V/s. Western Railway. The S.C.A. was dismissed on 25.02.2002 by the Hon'ble High Court by observing that there is no error in the order of the Tribunal. Thereafter the applicant filed miscellaneous Civil Application 1063/2002 before the Hon'ble High Court which was subsequently withdrawn vide order dated 02/09/2002. The order passed on 2/9/2002 is being quoted below :

"Realizing that there is no ground for reviewing our earlier order, the learned counsel for the applicants states that the applicants seek permission to withdraw this review application with a view to approach the Tribunal in the matter by way of review application on the ground that new facts have come to the knowledge of the applicants. The review application is rejected as withdrawn."



3. As one of the Hon'ble Member of the Bench which decided O.A.No. 190/1997 is now not alive, the present Bench has been constituted to hear the R.A..

4. This review application came up for preliminary hearing before this bench for admission and issue of notice. The counsel for the applicant submitted that as some new facts came to the knowledge of the applicant, the applicant withdrew the review application filed before the Hon'ble High Court with a permission to approach the Tribunal by way of review application and hence the present review application is maintainable.


5. After hearing the learned counsel for the applicant and after perusal of the order of the Hon'ble High Court dated 02/09/2002, we are unable to agree with the view addressed by the learned counsel for the applicant. The order of the Hon'ble High Court has been reproduced above. According to which after recording the submission of the learned counsel for the applicant in the review petition, the applicants therein were allowed to withdraw the review application. The order does not alter the position of the writ petition no. 2790/01 which was dismissed on merit vide order dated 25/02/2002. In case the submission of the learned counsel for the applicant is accepted, this ^{Tribunal} court would be required to first of all review the order of the Hon'ble High Court and thereafter to review the Tribunal's order dated 22/09/2000, which in our view can not be done. Once the Tribunal's order dated 22/09/2000 has been upheld by a reasoned order of the Hon'ble High Court dated 25/02/2002, the

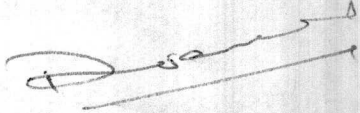


review petition by the Tribunal can not be entertained in view of the decision given by the Apex Court in the case of State of Maharashtra v/s. Prabhakar Bhikaji Ingle reported in 1996(3 SCC) page 463. In the cited case after the Tribunal's order was challenged before the Apex Court and the SLP was dismissed, a review application was filed before the Tribunal, the Apex Court held that even if the SLP was dismissed by a non speaking order, the order of the Tribunal stands merged with the order passed by the Supreme Court, hence the Tribunal can not entertain a review application.

6. Learned counsel for the applicant however submitted that the respondents have suppressed certain facts regarding the qualification for the post of Diesel Khalasi hence the applicant be permitted to file a fresh O.A.. In our view, however, this ground can not now be allowed to be taken after the writ petition is dismissed by the Hon'ble High Court and such a ground can not be entertained in RA.

7. In view of the above, the present review application in our view can not be entertained and is to be dismissed. Accordingly the R.A. is dismissed. M.A.767/2002 for condonation of delay also stands disposed of.


(G.C. Srivastava)
Member(A)


(D.C. Verma)
Vice Chairman(J)

Cmj/