

CENTRAL ADMINISTRATIVE TRIBUNAL
CALCUTTA BENCH

M.A. No.537 of 2002
(OA No.1143/1992)

Present: Hon'ble Mr. S. Biswas, Administrative Member
Hon'ble Mr. A. Sathath Khan, Judicial Member

SMT. PYARI DEBI

VS

UNION OF INDIA & ORS.

For the Applicant : Mr. B. C. Sinha, counsel

For the Respondents : Mr. K. Chakraborty, counsel

Date of order : 08-01-2003

O R D E R

A. Sathath Khan, JM

The above MA is for recalling the order dated 7.8.97 in OA 1143/92 and also for directing the respondents to pay family pension and other retiral benefits to the applicant.

2. The contention of the applicant is that this Tribunal by its order dated 7.8.97 in OA 1143/92 dismissed the OA on the ground that the applicant's husband did not possess at least one year qualifying service. However, the learned counsel for the applicant now submits that he has got sufficient proof to show that the applicant's husband was regularised with effect from 3.8.79 which is borne out by the order dated 30.6.94 of the Assistant Engineer, Garden Reach, Calcutta-43.

3. On the contrary, learned counsel for the respondents contended that the order of this Tribunal has become final and conclusive since no appeal/writ petition was filed against the said order and no review application was also filed within the time prescribed under the Act and Rules. Under these circumstances learned counsel for the respondents prays for the dismissal of the above MA.

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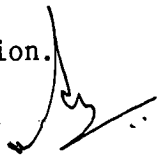
4. The short point for consideration in this case is ~~that~~^{for} whether the applicant is entitled to the relief prayed by her, viz., recalling the order of this Tribunal dated 7.8.97 in OA 1143/92. ^{Admittedly,} ~~Arbitrarily~~ no appeal/writ petition has been filed against the said order and no review application was filed within the time permitted under the law. The learned counsel for the applicant relied upon Rule 24 of the Central Administrative Tribunal (Procedure) Rules, 1987 which empowers the Tribunal to make such orders or give such directions as may be necessary or expedient to give effect to its order or to prevent abuse of its process or to secure the ends of justice. We have carefully examined the above rule and we are of the opinion that the earlier order of this Tribunal cannot be recalled under the provision of the said rule which is meant only for giving direction to give effect to its order or to prevent abuse of its process or to secure the ends of justice. This is a case where earlier ~~the~~ order of this Tribunal has been passed ^{and has become final and conclusive.} ~~The~~ above rule does not empower the Tribunal to recall its earlier order. Under this circumstance, we hold that this Tribunal cannot recall its order dated 7.8.97 in OA 1143/92.

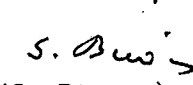
5. However, the learned counsel for the respondents is not being able to deny the genuineness of the order dated 30.6.94 regularising the service of the applicant's husband. The learned counsel for the respondents further contended that the above order dated 30.6.94 regularising the service of the applicant's husband had been cancelled by an order in the year 1995. We perused the reply filed by the respondents in OA 1143/92 to find out the stand taken by the Department in this regard and we find that the respondents had categorically contended in that reply that the applicant's husband was not regularised and hence the applicant is not entitled to family pension. It is surprising to note that nowhere in their reply the respondents had whispered about the regularisation order dated 30.6.94 or the cancellation order passed in the year 1995. The learned counsel for the respondents has brought to our notice the cancellation order

for the first time and the same was never placed before this Tribunal earlier when the previous OA was heard and disposed of. Under these circumstances, interest of justice requires the following direction to the respondents:

The applicant is directed to make a representation on the basis of the order dated 30.6.94 regularising the service of the applicant's husband and the respondents are directed to consider the case of the applicant and pass a speaking order within a period of six weeks from the date of receipt of this order. If the applicant is aggrieved by the said order, she is at liberty to approach this Tribunal afresh, if so advised.

6. In the result the MA is disposed of with the above direction.


(A. S. Khan)
MEMBER (J)


(S. Biswas)
MEMBER (A)