

CENTRAL ADMINISTRATIVE TRIBUNAL
CALCUTTA BENCH
CALCUTTA

No.R.A.179 of 2005
arising out of
O.A.870 of 1997

Date of order : 28/1/08

Present : Hon'ble Dr. D.K. Sahu, Judicial Member

Hon'ble Mr. C. Chatterji, Administrative Member

NIRANJAN DAS

VS.

UNION OF INDIA & OTHERS

For the applicant : Mr. S.S. Mondal, counsel
For the respondents : Mr. M.K. Bandyopadhyay, counsel

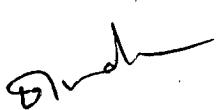
ORDER

Per Dr. D.K. Sahu, J.M.

On 08.01.2008 the M.A.No.179/2005(O.A.870/1997) was heard as Review Application.

2. The applicant submits that in the order dated 23.11.2004 passed in the O.A. it has been mentioned that no disciplinary proceedings were initiated against the applicant, but in fact there was a disciplinary proceeding against him. It is contended that in the aforesaid order it is stated that the applicant was under suspension from 30.5.1997 to 7.6.1997, accordingly order was issued for payment of salary for the said period of 9 days only whereas he was under suspension from 30.5.1997 to 1.9.1997 i.e. for a period of more than three months. Accordingly application has been filed to review the order on the plea that error is apparent on the face of the record.

3. Having felt it expedient, we verified the Original Application. In the application nowhere it has been mentioned that the applicant was proceeded against by the date of filing of the said application. On the contrary, in Para 4.10 it has been stated that the order of suspension was not made in contemplation of drawal of disciplinary proceeding



and any order of suspension made prior to drawal of departmental proceeding cast a stigma prejudicing the rights of the delinquent official. Thus, the submission of the ld. counsel for the applicant that there was a disciplinary proceeding against him, is not borne in the application.

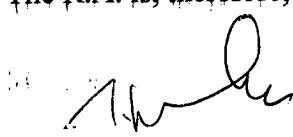
4. Likewise it has been stated in clear terms in Para 4.11 that he was under suspension from 30.5.1997 to 7.6.1997 and salary of 9 days was deducted. In the prayer portion vide Para (8) the applicant sought for refund of an amount of Rs.1445/- , the salary for the period from 30.5.1997 to 7.6.1997. Thus the submission made by the applicant that he was under suspension from 30.5.1997 to 1.9.1997 too is not borne on record.

5. Accordingly submission of the ld. counsel is out of record. Such wrong submission should have not been made in future, because due to such improper submission (may be unintentional) , valuable time of the court has been improperly used.

6. Final order in the O.A. was passed on 23.11.2004 and copy of the order was received by the applicant on 22.12.2004. This application has been filed on 01.04.2005. It should have been filed within 30 days from the date of receipt of the order. Apparently there has been delay in filing this application.

5. After careful consideration we do no find any error apparent on the face of the record, this application does not fall within the ambit of Order 47 Rule 1 of CPC either.

The R.A. is, therefore, dismissed. No order as to cost.


MEMBER(A)


MEMBER(J)

CENTRAL ADMINISTRATIVE TRIBUNAL
CALCUTTA BENCH
CALCUTTA

No.M.A.179 of 2005
(O.A.870 of 1997)

Date of order : 08.01.2008

Present : Hon'ble Dr. D.K. Sahu, Judicial Member

Hon'ble Mr. Champak Chatterji, Administrative Member

NIRANJAN DAS

VS.

UNION OF INDIA & ORS.

For the applicant : Mr. S.S. Mondal, counsel
For the respondents : Mr. M.K. Bandyopadhyay, counsel

ORDER

Heard ld. counsel for both sides. Ld. counsel for the applicant submits that there is error apparent on the face of the order relating to period of suspension and initiation of disciplinary proceeding.

2. However, ld. counsel for the applicant submits that he has not filed a review application but it is an application for recalling the order.

3. After careful consideration we find that there is no provision to recall the order of this Tribunal. We are inclined to call it review application. Though it is filed late we are condoning the delay considering the fact that for any error apparent on record justice shall not fail. So under clause 3 of Rule 4 of Rule 1 it is considered as review application. Order is reserved. After perusal of the records necessary orders shall be passed.


MEMBER(A)


MEMBER(J)