

CENTRAL ADMINISTRATIVE TRIBUNAL
CALCUTTA BENCH

No. MA.390 of 97
(OA.399 of 97)

Present : Hon'ble Mr. D. Purkayastha, Judicial Member

Hon'ble Mr. G.S. Maingi, Administrative Member

Edwin Yafat son of Ayub Yafat, aged about 59 years
Ex-travelling Ticket Examiner, E. Rly. Madhupur and
resident of Krishnagar, P.O. Giridih.

... Applicant

-Versus-

1. Union of India, through the General Manager, E.Rly. Calcutta.
2. The Divisional Railway Manager, E. Rly. Asansol.
3. Dy. Chief Accounts Officer, (TA) 14 Strand Road, Calcutta -1.
4. F.A. & C.A.O., Eastern Railway, Fairlie Place, Calcutta -1.

... Respondents
(O.P.)

For the applicant(s) : Mr. B. Chatterjee, counsel

For the respondents : Ms. R. Basu, counsel

Heard on : 4.5.2000

Order on: 4.5.2000

O R D E R

D. Purkayastha, J.M.:-

Heard Mr. B. Chatterjee, ld. counsel appearing on behalf of the applicant seeking review of the original order dated 10.9.97 on the ground that Tribunal acted beyond its jurisdiction relying on the judgement of Hon'ble Apex Court reported in 1997(2) SCC 292 on the question of limitation which ^{has} been referred to by the applicant and respondents and respondents did not also raise the question of limitation in the original reply. He further submits that no enquiry has been made by the Authorities in respect of missing of E.F.T. Books and the Tribunal did not consider ^{the provision in} Para 228 and 227(B) of Indian Commercial Manual Vol.1 in respect of Procedure of enquiry for loss of Tickets. Therefore, Tribunal acted with material

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irregularities and illegalities in passing the judgement dated 10.9.1997. Ld. Advocate Mr. Chatterjee further submits that Tribunal should not rely on the judgements which have not referred to before the Tribunal by the Parties at the time of hearing. He also contends that the Tribunal should consider all judgements mentioned in the application for review, though he is unable to produce all these judgements in support of his contention except two judgements reported in 1994 Page 1718 and AIR 1991 SCC Page 101. According to the ld. advocate Mr. Chatterjee, it is a fit case for review since the applicant did not prefer any appeal before the competent court of law.

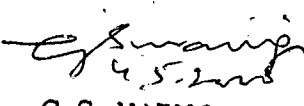
2. Respondents filed written reply to the M.A. Ms. R. Basu, ld. counsel appearing on behalf of the respondents (O.P.) denied the averments made by the applicant in his application for review under Rule 12 of the CAT Procedure Rules, 1987. It is settled law by various decisions of the Hon'ble Apex Court that the Tribunal or the court should not review a judgement unless it is found that there is an apparent wrong or error on the face of the judgement or there has been apparent material irregularity and illegality on the face of the judgement. It is settled law that Review Authority cannot reappreciate the evidences as an appellant authority of the judgement for coming to a different conclusion on the matter decided by the court/Tribunal. We have gone through Para 5 of the judgement dated 10.9.97 regarding question of limitation. It is found that in the said order dated 10.9.97, Tribunal has stated the reasons as to why the application was found barred by limitation. The court cannot sit as a mum or silent spectator. It is the duty of the Tribunal to apply law and decisions of the Apex Court/High Court according to the facts and circumstances of the case, though decision of the Apex Court may not be referred to by the Advocates. In view of the aforesaid circumstances we are unable to accept the contention of the ld. advocate Mr. B. Chatterjee. We do not find any material facts to hold that the decision taken by the Tribunal in the judgement suffers from any irregularity or illegality. In a recent judgement reported in 1999 8 SCC 304 (Ramesh Ch. Sharma Vs. Uma Singh Kamal)

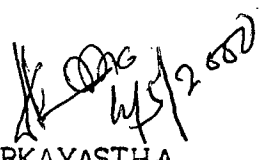
Hon'ble Apex Court held that time barred application filed u/s.21 sub-clause 3 of the Act cannot be considered on merit. We have gone through the records and facts of the case and we find that Tribunal did not dismiss the original application on the ground of limitation alone. Tribunal considered the case on merit. It is found that applicant has made contradictory statements in the original application and the Tribunal made the following observation at the time of passing of the judgement :-

" The respondents contend that the contentions made in the application are contradictory to his said special report. In the said special report, he has stated that at Fatwa Railway Station the said bag seemed to have been taken away by two young men, whereas in the present application he has stated that his bag was snatched in between Patna and Fatwa. Therefore, it is crystal clear that his bag was not taken away by any miscreants; rather he himself lost the said local EFT books due to his gross negligence and absolute carelessness. It is also stated by the applicant in the said report that one A.S.I.G.R.P./Fatwah who was also on the platform ran after them alongwith him; but they failed to catch the miscreants."

3. Mr. Chatterjee failed to contradict the same by presenting any materials to show that the said findings made by the Tribunal are not based on records and we find that no materials can be produced by the applicant in this case to show that any finding made by the Tribunal is wrong or illegal or not based on facts.

4. However, considering all facts and circumstances of the case we are satisfied that there is no ground for interference of the order passed by this Tribunal under challenge. Therefore, we reject this application awarding cost of Rs.500/- to be paid by the applicant to the respondents (O.P.).


G.S. MAINGI
MEMBER (A)


D. PURKAYASTHA
MEMBER (J)