

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

R.A.No.7/2000 in O.A.163/2000

Wednesday, this the 26th day of April, 2000.

CORAM

HON'BLE MR A.M. SIVADAS, JUDICIAL MEMBER

R. Devasathanamtham,
S/o Late Rajamani,
South Thamarakulam,
Kanyakumari District,
Tamil Nadu.

Review Applicant

By Advocate Mr T.N. Sukumaran.

Vs.

1. Union of India represented
by the General Manager,
Southern Railway,
Chennai-3.
2. Divisional Railway Manager,
Southern Railway,
Trivandrum-14.
3. Senior Divisional Personnel Officer,
Southern Railway,
Trivandrum-14.

HON'BLE MR A.M. SIVADAS, JUDICIAL MEMBER

An application for review can be entertained on the grounds of 'discovery of new and important matter or evidence which, after the exercise of due diligence, was not within his knowledge or could not be produced by him at the time when the decree was passed or order made, or on account of some mistake or error apparent on the face of the record, or for any other sufficient reason.'

2. There is no ground raised that there is discovery of new and important matter. There is also no ground raised to the effect that there is an error apparent on the face of the record.

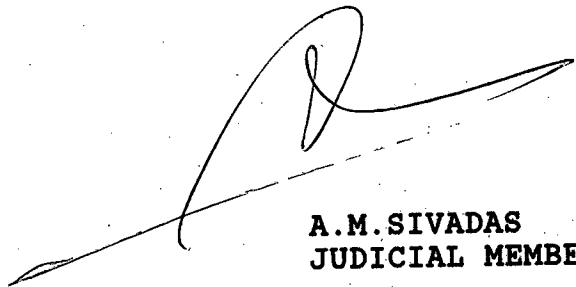
3. One of the grounds raised is that the applicant may be given one more chance to ventilate his grievances and a sympathetic approach is to be made.

4. It is not a sufficient reason for granting a review that if another opportunity is given to the applicant, he would convince the Tribunal that the previous order was wrong.

5. Tribunal cannot confer benediction impelled by sympathetic consideration.

6. Another ground raised is that in the interest of equity, review is to be allowed. I am inclined to think that a jurisdiction in equity does not inhere in the Tribunal. If any authority is needed for this proposition, it is found in Joginder Singh Vs. Union of India (1989) 11 ATC 474 and Union of India Vs. Deokinandan Aggarwal (1992) 19 ATC 219 (SC). The Tribunal cannot travel in the regions of equity and innovate remedies.

7. The Review Application is accordingly dismissed. No costs.



A.M.SIVADAS
JUDICIAL MEMBER

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

OA No. 163 of 2000

Tuesday, this the 7th day of March, 2000

CORAM

HON'BLE MR. A.M. SIVADAS, JUDICIAL MEMBER

1. R. Devasathanamtham,
S/o Rajamani,
South Thamarakulam,
Kanyakumari District, Tamilnadu ..Applicant

By Advocate Mr. T.N. Sukumaran

Versus

1. Union of India represented by
General Manager,
Southern Railway, Chennai-3
2. Divisional Railway Manager,
Southern Railway, Trivandrum-14
3. Senior Divisional Personnel Officer,
Southern Railway,
Trivandrum-14 ..Respondents

By Advocate Mr. Thomas Mathew Nellimoottil

The application having been heard on 7th March 2000,
the Tribunal on the same day delivered the following:

O R D E R

HON'BLE MR. A.M. SIVADAS, JUDICIAL MEMBER

The applicant seeks to direct the respondents to include his name in the list of retrenched casual labourers belonging to the Civil Engineering Department of Southern Railway, Trivandrum Division at the appropriate place and to grant him consequential benefits thereof.

2. In the OA, the applicant says that he is a pre 1.1.1981 retrenched casual labourer of Southern Railway, Trivandrum Division. He was disengaged from service on 5.12.1980. He further says:

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"While so, in response to notification published by the respondents, the applicant submitted application for inclusion of his name in the list of retrenched Casual Labourers in the month of March 2987. The true copy of the application is produced herewith and marked as Annexure-A1 to this application. ..."

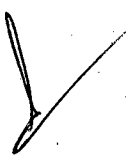
3. After long time, the applicant came to know that some of his juniors were engaged and he submitted a representation dated 10.5.99 to the 2nd respondent. A5 and A6 are the true copies of the service cards of the applicant. Inaction on the part of the respondents to include his name in the list of retrenched casual labourers and to grant him consequential benefits of re-engagement is arbitrary and unconstitutional.

4. It is something very strange that the applicant alleges that in response to a notification published by the respondents he submitted an application for inclusion of his name in the list of retrenched casual labourers in the month of March 2987.

5. I asked the learned counsel for the applicant regarding the said averment. It was submitted across the Bar that an application was submitted by the applicant on 18.5.99. There is no annexure produced in this OA dated 18.5.99.

6. The applicant says that A1 is the true copy of the application submitted by him for inclusion of his name in the list of retrenched casual labourers. The same is dated 14.3.97.

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7. In the verification portion of the OA, the age of the applicant is shown as 49 years. This OA was signed by the applicant on 23.12.99. Learned counsel appearing for the applicant submitted that the age of the applicant shown in the verification portion of the OA is correct. That being so, the applicant was born in the year 1950. In A1 dated 14.3.97, in the date of birth column, though date of birth is not shown, the age of the applicant is shown as 21 years. If the applicant was born in the year 1950 and was aged 49 years as on 23.12.99, it is highly mysterious how he could be aged 21 years as on 14.3.97. It is highly doubtful whether A1 pertains to the applicant.

8. A5 is purported to be the casual labourer card issued to the applicant. There the date of birth column is left blank. So also the column for entering the personal marks of identification. A6 is also purported to be another casual labourer service card issued to the applicant. There the date of birth column is blank. The column given to state the age is also blank. In the column provided for showing the personal marks of identification is also left blank. It is also not known from A6, when it was issued.

9. When the list of retrenched casual labourers was published is not mentioned in the OA. That will have a bearing on the question of limitation.

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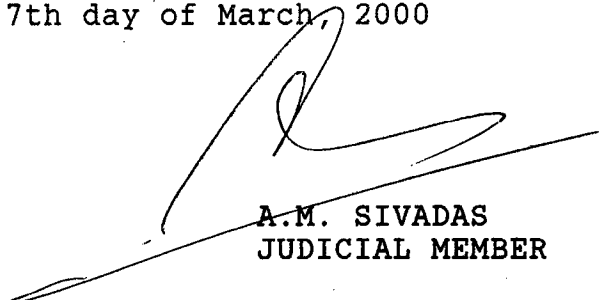


10. The applicant says that he has submitted another representation A3 dated 10.5.99. Unless it is known when the list of retrenched casual labourers was published, it cannot be said whether A3 was filed within time.

11. Accordingly, I do not find any ground to admit the original application.

12. The original application is dismissed. No costs.

Tuesday, this the 7th day of March, 2000



A.M. SIVADAS
JUDICIAL MEMBER

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List of Annexures referred to in this Order:

1. Annexure A1 - True copy of the application dated 14-3-97 submitted by the applicant.
2. Annexure A3 - True copy of the representation dated 10-5-99 submitted by the applicant.
3. Annexure A5 - True photo copy of service card for the period from 19-2-79 to 5-7-79.
4. Annexure A6 - True photo copy of service card for the period from 17-12-79 to 5-12-80.