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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
AT ALLAHABAD

CIRCUIT BENCH, LUCKNOW

Review Petition No.742/90(L)
in
T.A. No.3/90

Jaglal .. Petitioner

versus

Union of India & Ors. .. Respondents

Coram: Hon'ble Shri Justice K.Nath, Vice-Chairman
Hon'ble Shri M.Y.Priolkar, Admin. Member.

TRIBUNAL'S ORDER: Date:
(Per M.Y.Priolkar, Member(A))

This Review Petition is against our judgment dated 15.11.1990 in T.A.No.3 of 1990(Original Writ Petition No.1632 of 1979). The prayer for review is on the ground that the judgment does not take into account some vital facts and law set out in the Writ Petition.

2. The grievance of the petitioner in this Transferred Application was that he was dismissed from service in 1975. His appeal and review application against the dismissal order were also rejected in 1976 and 1977, respectively. Subsequently, however, the General Manager, N.E.Railway on a suo moto review re-appointed him on the same post on 22-7-1978 but in the lowest pay of the scale. The prayer in the original Writ Petition was that these orders of the disciplinary, appellate and reviewing authorities as well as the General Manager's order of re-appointment on the lowest pay of the scale be quashed and set aside, re-instatement ordered with full benefits and the respondents directed to dispose off of the petitioner's representation dated 23.5.1979(Annexure 7).

3. He did not see any merit in this Transferred Writ Petition since the petitioner had not explained earlier the specific grounds nor cited any specific authority in support of his contentions therein that the dismissal order dated 8-7-1975 was bad in law and also that as per the law applicable in his case, his initial pay on reappointment should not be less than the pay drawn last or on any previous occasions. As seen from the record, no such grounds had been explained in the appeal against the dismissal order or in review petition against the appellate authority's order. In para 3 of our judgment dated 15.11.1990, we had stated specifically that "even in his representation dated 23.5.1979 (Annexure No.7) which he claims to have submitted to the General Manager no plea is taken that the dismissal order is illegal or that the pay on re-appointment cannot be at the lowest stage in the grade." What we meant was that the specific provisions of law under which the dismissal order is alleged to be illegal or the specific rules or law under which it is contended that the pay on re-appointment cannot be fixed at the lowest stage were neither mentioned in the appeal or review petition or the representation to the General Manager nor these grounds taken up specifically any time before the competent authorities before approaching the High Court with the Writ Petition. A mere statement in the Writ Petition that the principles of natural justice have been grossly violated as no notice or opportunity was given to meet the impugned orders was not in our view, an adequate ground for setting aside the orders when it was not agitated at all before the appellate or reviewing authorities or even in the representation before the General Manager that there were no

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circumstances in this case to warrant the special power to be exercised under Rule 14(ii) of BAR as is being done now. We do not, therefore, think that there is any error apparent from the record in our observation made in the judgment under review that the petitioner "had not taken this plea of denial of opportunity any time earlier and it is now too late to raise this contention against a dismissal order of 1975."

4. The second ground on which our judgment dated 15-11-1990 is sought to be reviewed is our observation in para 4 wherein that a judgment of the Allahabad Bench of the Tribunal cited by the applicant was of no relevance to the present case and one additional reason given in the Allahabad Bench judgment, namely, that the petitioners in that case were not retired in public interest but for certain other considerations will also have applicability only to the facts of that case. Evidently, as stated in our judgment under review, the main reason for which the Allahabad Bench had allowed the application before them was the fact that the mandatory requirement of three months' notice or three months' pay in lieu of notice had not been fulfilled in that case. In the present case before us, there was no plea regarding non-observance of any such mandatory requirement and that judgment is, therefore, not relevant to the present case. The additional reason given that the applicants in the case before the Allahabad Bench were not retired in public interest but for certain other considerations will evidently have applicability to the facts of that case as observed by us in our judgment under review.

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5. There is thus no ~~mistake~~ or error apparent from the record. There is also no new evidence or discovery of any new and important matter which was not within the knowledge of petitioners when the judgment was delivered. We do not, therefore, find any sufficient reason to warrant a review of our judgment dated 15-11-1990 in T.A.No. 3 of 1990 (J.P. No.1632 of 1979). The review petition (No.742/90(L)) is accordingly dismissed.

M.Y.PRIOLKA
(M.Y.PRIOLKA)
Member(A)

K.NATH
(K.NATH)
Vice-Chairman

22.7.91