

Central Administrative Tribunal, Lucknow Bench, Lucknow
Review Petition No. 62/2004 in O.A.No.569/99

this the 9th day of August, 2004

HON'BLE SHRI SHANKER RAJU, MEMBER (J)

HON'BLE SHRI S.P. ARYA, MEMBER (A)

Union of India and others ...Applicant/Respondent

By Advocate: Sri Arvind Kumar

in

R.K. Pandey

...Applicant

Versus

Union of India and others

...Respondents

ORDER (UNDER CIRCULATION)

BY HON'BLE SHRI S.P. ARYA, MEMBER (A)

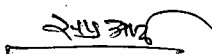
This review application has been filed on behalf of the respondents of O.A. No. 569/99 which was allowed on 24th May, 2004 on the ground that the contentions made in the Original Application remained uncontroverted and un rebutted as no counter reply was filed by them.

2. We find no necessity to hear the parties and therefore the review application is disposed of by circulation.

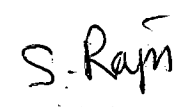
3. We have perused the pleadings. The respondents have stated that the applicant was suspended for certain irregularity on 3rd July, 1995 and he was superannuated on 31.8.1995. Disciplinary proceedings has started. Since the applicant has retired, the matter was sent to the higher authorities for orders. On certain observations, records were returned without orders. The same has again been submitted and orders are awaited. It is further stated that the applicant has deliberately concealed the material facts while filing this O.A. without disclosing that the enquiry was pending against him. 90% gratuity was allowed to be

paid on 23.7.98. Only 10% gratuity was withheld. The contention of the respondents is that it ~~should~~^{could} be withheld under Rule 15 of the Railway Service (Pension) Rules 1993 and para 2734 of Commercial Manual. The applicant has accepted the liability for outstanding dues posted at the relevant time at the station Magawara, Lalganj and Kurebhar. It is further stated that since the records were with the disciplinary authority or higher authorities, Counter Reply could not be filed in time. In the circumstances, we find that full facts were not available with the respondents for one reason or other and that resulted the O.A. to be allowed. For substantial justice to the parties, it is necessary that the respondents should be heard and the facts which has been disclosed should be taken into account while deciding the O.A. It would be, therefore, in the interest of justice that because of non availability of facts, mis-carriage of justice is not caused. Accordingly we are of the considered opinion that the R.A. is allowed and the counter reply filed by the respondents is taken on record and O.A. be reheard.

4. in view of the above discussion, R.A. is allowed. O.A. No. 569/99 be fixed for hearing.


(S.P. ARYA)
MEMBER (A)

HLS/-


(SHANKER RAJU)
MEMBER (J)