

CENTRAL ADMINISTRATIVE TRIBUNAL

BOMBAY BENCH, MUMBAI.

R.P. NO. 18/2005 IN O.A. NO. 773/96.

Dated this Friday, the 15<sup>th</sup> day of April, 2005.

CORAM : Hon'ble Shri Anand Kumar Bhatt, Member (A).

Anant Prasad Singh ... Applicant

versus

Union of India & 4 Others ... Respondents

O R D E R

PER : Shri Anand Kumar Bhatt, Member (A).

R.P. No. 18/2005 has been filed in O.A. 773/96.

2. The matter is relating to adverse entry given to the applicant for the year 1991-92. This was first heard by a Single Member Bench of the Tribunal where by order dated 18.09.1997 the O.A. was dismissed. The applicant had gone to the Hon'ble High Court where the case was remanded to the Tribunal with a direction that "the Tribunal may permit the Petitioner to produce all necessary material that he wants to produce before the Tribunal and may as well direct the respondents to produce the documents which the petitioner wants to produce to substantiate his submissions that the adverse remarks were not justified". Accordingly,

the case was heard by me in Single Bench on 18.11.2004 and order was passed on 30.11.2004 by which the O.A. was dismissed. Now the present R.P. has been filed by the applicant.

3. The first ground taken by the applicant is that the observation made by the Tribunal in para 7 of the order is wrong on fact, as this was already raised by the applicant in para 4.9 of the O.A. The applicant is challenging the error made by the Tribunal in the judgement and such error in the judgement of the Tribunal cannot be corrected in a R.P. The second point raised by the applicant is that the order of the Division Bench of the High Court in W.P. No. 5466/97 dated 04.07.2003 has not been complied with and in this regard a false affidavit has been given. The respondents have stated that the records are destroyed after three years and they have also enclosed a copy of the rules regarding destruction of records pertaining to the Accounts audited by the Indian Audit Department on page 102 of the Paper Book where so far as records relating to contingent expenditure is concerned, there is provision for destruction after ~~it~~ three years or one year after completion of the audit, whichever is later. On that basis, the bills/vouchers by the applicant were not produced. In this also we do not find any error apparent on the face of record.

4. The applicant has also contended that as the order of the Tribunal was set aside by the Division Bench of the High Court, the present O.A. should have been decided by a Co-Ordinate Bench for full justice to the aggrieved party. The case was originally heard by a Single Member Bench and after remand, has been heard by another Single Member Bench than the one who initially decided the O.A. There is no specific order by the High Court that the matter be heard by a Division Bench and hence this contention of the applicant cannot be entertained in the Review Petition.

The applicant has further contended that the calculation of Earned Leave made by the Tribunal as regards Earned Leave taken by the applicant is not correct. This kind of error in judgement cannot be heard in a review petition. The Tribunal had considered the pleadings of the applicant and had held that isolated periods of leave taken by the applicant or the Reporting Officer need not be deducted from the minimum period of eligibility for writing ~~an~~ <sup>The</sup> ACR by the Reporting Officer and again this cannot be questioned by the applicant in a Review Petition. The applicant had cited O.A. 469/92 in the order of the Tribunal dated 18.09.1997 and the applicant has again tried to rely on the said judgement. By this the applicant is trying rehearing of the case. In para 10 of the Review Petition it has been alleged that the Tribunal committed error in stating that "Applicant does not want to produce ~~was in compliance of~~ documents". This ~~is according to~~ the judgement of the High

Court where the direction was to consider the documents produced by the applicant and those documents which the respondents produce. This was done by the Tribunal in compliance of the first part of the High Court order.

5. A Review Petition can be considered for discovery of new and important matter of evidence, some mistake or error apparent on the face of record or for any other sufficient reason. As mentioned earlier, for a wrong judgement review petition cannot be entertained. From the discussions as above we find that there is no error or mistake which is apparent on the face of the record nor there is any discovery of new or important matter or evidence. Therefore, the grievance of the applicant cannot be redressed by way of a Review Petition and the present submissions made by the applicant are beyond the scope of a review petition.

6. R.P. is dismissed by circulation.

  
(ANAND KUMAR BHATT)  
MEMBER (A).