

CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH, MUMBAI

REVIEW PETITION No.29/2000 in
ORIGINAL APPLICATION No.1095/99

Union of India through
The General Manager,
Central Railway
CST Mumbai and others.

Petitioner/
Ori. Respondent

V/S

Dr. S.B. Dhande

Respondent/
Ori.Applicant.

ORDER ON REVIEW PETITION BY CIRCULATION

{Per Shri S.L.Jain, Member (J)}

Dated: 7th July 2000

The original respondents have filed this Review Petition

in OA 1095/99 which was decided by this Bench on 20.4.2000.

2. Rule 17(5) of CAT (Procedure) Rules 1987 is as under:

No application for review shall be entertained unless it is supported by a duly sworn affidavit indicating therein the source of knowledge, personal or otherwise, and also those which are sworn on the basis of the legal advice. The counter-affidavit in review application will also be a duly sworn affidavit wherever any averment of fact is disputed.

3. On perusal of the same it is clear that no application for review shall be entertained unless it is supported by a duly ^{sworn} affidavit. Affidavit is to be in Form No 14 of the CAT Rules of Practice. On perusal of the affidavit filed alongwith Review Petition it is suffice to state that it is not in Form No.14 having material omissions such as - 'do hereby swear in the name of God/Solemnly affirm and state as under: The Form is not important one but when it lacks in material particulars, it

J.YK

...2...

cannot be over looked. In the result the application cannot be entertained in view of Rule 17(5) of CAT Procedure Rules 1987 as stated above.

4. On perusal of the grounds of Review of the order passed, I find that one of the grounds is that question of limitation is not considered, deputation for which different rules applies is not considered, the order dated 16.3.1996 (Exhibit I) which is not challenged, the OA was not liable to be allowed.

5. Suffice to state that question of limitation was not argued by both parties, a question which does not arise for consideration, not argued by the parties, not to be gone into by the Bench. Even looking to the pleadings of the parties question of limitation does not germinate in the present case.

6. A letter dated 26.2.1996/16.3. Exhibit 1 at page 28 of the OA, only it is ordered by the respondents that the applicant has to take extra ordinary leave and intimation accordingly was forwarded. The extra ordinary leave was neither a subject for consideration nor considered nor decided. Hence the period of limitation cannot be counted from the said date.

7. The Tribunal passed the following order:

In the result, OA is allowed, the respondents are directed to consider the application of the applicant for leave for the period 15.2.1993 to 30.6.1993 (The applicant may furnish a copy of the same to the respondents, if asked for), the applicant may apply for deputation for such period, which is short, to cover the period of 3 years within one months of the receipt of the copy of the order, the respondents to decide the same as

Alr

...3...

:3:

per extent Rules within a period of three months from the date of receipt of copy of the order or application which is late in time, ignoring the fact that he has not applied well in advance, keeping in view the deputation sanction to Dr. S.A. Nazmiar, Dr.P.K. Sharma and 1999 SCC (L&S) 1171 State of Punjab and others V/s Dr. Rajeev Sarwal.

8. On perusal of the same it is clear that the respondents have to decide the question of deputation leave as per extent rules. As there was no application for the said type of leave it was not necessary for the Tribunal to examine the same question.

9. In the result even on merit I do not find any ground to review the order passed on 20.4.2000 in OA 1095/99.

10. Alongwith Review Petition the respondents have also filed an application (M.P. 400/2000) seeking the relief that pending hearing and final disposal of the Review Petition, the operation of order dated 20.4.2000 be stayed, as review is not entertained, hence no merit in M.P. 400/2000 and the same is deserves to be dismissed and is dismissed accordingly.

S.L.Jain
(S.L.JAIN)
Member(J)

NS

Mr. 7/7/00
order/Judgement despatched
to Applicant/Respondent(s)
on 19/7/00

21/7/00