

**CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH**

R.P.NO.54/2000 IN OA.NO.414/99.

12TH DECEMBER, 2000.

CORAM: HON'BLE SMT. SHANTA SHASTRY, MEMBER(A)

1. Union of India (Through),
General Manager, Central Railway,
Mumbai CST.

2. Divisional Railway Manager,
Central Railway, Solapur.

... Review Petitioners
(Original Respondents)

By Advocate Shri V.D.Vadhavkar

V/s.

Smt. Meerabhai Ratanlal Rathod,
W/o. of late Ratanlal Mulchand Rathod,
Ex. IInd Fireman, Central Railway,
Daund.

... Respondent
(Original Applicant)

By Advocate Shri R.D. Deharia

(ORAL) (ORDER).

Per Smt. Shanta Shastri, Member(A).

Heard Shri V.D.Vadhavkar, learned counsel for the review petitioner and Shri R.D. Deharia for the respondents in the review.

2. The RP has been filed seeking a review of the judgement and order dated 8/8/2000 passed in OA-414/99. The OA was allowed with a direction to the respondents to grant Family Pension to the applicant in the OA, from 12/4/93 instead of 1/4/94. The applicant was also entitled to payment of arrears on pension as due, based on the said order. No interest on the arrears of Pension was allowed. The respondents were to comply with the order within a period of three months.

...2.

3. The respondents in the OA have now filed this Review Petition on the ground that there was an error apparent on the face of the record as the applicant was not missing even as on 6/10/92 as was evident from the office record of a slip which shows that the applicant's husband in the OA had appeared before the Divisional Railway Manager on 6/10/92 and sought a personal interview. The learned counsel for the review petitioner submitted that an employee who appeared in the office on 6/10/92 and ^{was} alive himself could not ^{said to be} be hidden from 1985 and said to be missing from 1985 especially as the Divisional Railway Manager, the highest authority for the department is at Solapur and his family is also at Solapur. He has further pleaded that there has an error apparent on the face of the record. The decision of the petitioners to allow the Family pension to the respondents from 1/4/94 i.e. from the normal date of superannuation of the employee was as a gesture of compassion and that should not be taken as a right of the applicant to claim family pension from earlier date. The learned counsel also took me through the other grounds mentioned in the review application as well as the judgement dated 8/8/2000 in OA-414/99.

4. The learned counsel for the review respondents submits that no new facts have been brought out by the review petitioner to call for a review in this case. The learned counsel has relied upon the judgement dated 2/11/99 of the Hon. Supreme Court in Civil Appeal No. 11811/95 in the case of Ajit Kumar Rath V/s. State of Orissa & Ors. He refers to Headnote (C) and para - 28 & 29 of the judgement. The Hon. Supreme Court held that the power of review is not absolute. It can be exercised on the application of a person on the 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 order was passed. The power can also be exercised on account of some mistake or for an error apparent on the face of the record. A review cannot be claimed or asked merely for fresh hearing or arguments or correction of an erroneous view taken earlier, that is to say, the power of review can be exercised only for correcting of patent error of law or fact which stares in the face without any elaborate argument being needed for establishing it.

By The learned counsel therefore submits that there being no new facts or no error apparent, the RP needs to be dismissed.

5. I have given careful consideration to the arguments advanced by both sides. In my considered view, the learned counsel for the review petitioners has not brought out any new facts which were not already there before the Hon. Judge in OA-414/99. The production of the office record disclosing the appearance of the missing husband of the applicant in that OA and also that it cannot be believed that the family did not know about the missing employee [↓] were taken into consideration while passing the order. The Respondents in the OA also had not produced any material to show that the family was aware about the whereabouts of the missing employee.

6. I find that the learned counsel for the review petitioner has merely tried to re-argue the case on the basis of the earlier facts. The RA-54/2000 is therefore not maintainable. Accordingly it is dismissed.

Shanta Shastri

(SHANTA SHASTRY)
MEMBER (A)