

CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH

REVIEW PETITION NO.75/2001
IN O.A. NO.350/1999

Dated: 19/7/2002

CORAM:HON'BLE SHRI S.L.JAIN, MEMBER(J)
HON'BLE SMT. SHANTA SHASTRY, MEMBER(A)

Shri Krishna Kanji Baraiya,
Residing at House No.180/3,
Khir Khayana Wadama, Choro Mithabawa,
At-Ghoghia, Diu - 382 540 and
Then working as Meter Reader
in the Electricity Department
Sub Division No.11,
Administration of Daman & Diu

... Review Petitioner

By Advocate Shri S.R.Atre

V/s.

1. The Union of India, through
The Administrator,
Union Territory of Daman, Diu and
Dadara and Nagar Haveli, Secretariat,
Daman - 396 220.
2. The Development Commissioner and
Appointing Authority,
Administration of Daman & Diu,
Secretariat, Daman - 396 220
3. The Executive Engineer(Electrical)
Electricity Department,
Power House Building, 2nd Floor,
Nani Daman, Daman-396 210.
4. The Collector,
Office of the Collector,
Daman - 396 220
5. The Assistant Engineer(Electrical),
Sub Division No.11, Diu - 362 540. ... Respondents

By Advocate Shri R.K.Shetty

(ORDER)

Per Smt.Shanta Shastry, Member(A)

The applicant in OA No.350/99 has filed the present review petition against the order dated 26/9/2001 in the aforesaid OA.

2. The petitioner submits that there is an error apparent

...2.

on the face of the record in that when the Tribunal had come to the conclusion that the petitioner had not been permanently incapacitated for Government service, the petitioner could not have been directed to appear for the review medical examination. When the order retiring the petitioner on invalid pension has itself been found to be illegal and bad in law, the question of any further review medical examination would not arise. Therefore the applicant has prayed for review of the order dated 26/9/2001.

3. Further, according to the petitioner, the main contention raised by him in the OA was that when none of the medical boards had ever found him permanently incapacitated, there was no question of retiring the petitioner on invalid pension and there was no necessity for directing him to appear before the review medical board. It was in the alternative that the petitioner had prayed that even otherwise also the petitioner should be allowed to appear before review medical board. According to the petitioner, when in the body of the judgement, the tribunal had held that it was wrong to have retired the petitioner on invalid pension being not permanently incapacitated as per the rules, the actual decision of the tribunal has been contrary to the same.

4. The Petitioner has also filed MP No.992/2001 for condonation of delay in filing the review petition. The reason given is that the applicant received the certified copy of the order dated 26/9/2001 around 5/10/2001. Thereafter, he was down with Malaria and therefore he could not come down immediately to Mumbai to sign the Review Petition prepared by his counsel and there was delay in preferring the Review Petition.

5. We are satisfied that it was beyond the control of the applicant, to have approached within a period of one month from the date of receipt of the order. Accordingly, we condone the delay in the matter.

6. We have heard the learned counsel for the applicant and the respondents in this matter and have carefully perused the grounds taken. The judgement was dictated in Open Court in the presence of both the parties. The Tribunal had noted that the applicant himself had asked for a review of the report of the Medical Board declaring him not fit for the post of Meter Reader and a review medical examination was held. However, since the ^{Medical} ~~new~~ board was not constituted properly and the applicant was asked to appear for a further review medical examination, keeping this background in mind, the tribunal consciously directed the petitioner to appear for a review medical examination. It cannot therefore be said that there is any error apparent on the face of the record. Even if the decision were wrong according to the applicant, it cannot be a ground for a review.

7. In our considered view, therefore there is no need for review in the present matter. Accordingly, the review petition is dismissed. No costs.

Shanta S.
(SMT. SHANTA SHASTRY)
MEMBER(A)

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

ABP
abp

dt: 19.7.02.
order/Judgement despatched
to Applicant/Respondent (s)

30.7.02
PP
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