

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH, "GULESTAN" BUILDING NO.6
BOMBAY - 400 001

REVIEW PETITION NO.46/91 IN O.A. No.17/91

Shri Balu Baburao Lande & Ors.
Licenced Porter No.36
Thane Railway, Station
Thane

.. Applicants

V/s.

The General Manager
Central Railway
Bombay VT, & Ors.

.. Respondents

CORAM: HON.SHRI P S CHAUDHURI, MEMBER (A)
HON.SHRI T C REDDY, MEMBER (J)

TRIBUNAL ORDER

DATED: 12-09-1991

This review petition under section 22(3)(f) of the Administrative Tribunals Act, 1985 was filed on 29.7.91 for reviewing the judgment and order in O.A. No.17/1991 decided on 30.4.1996, a copy whereof was received by the applicants on or about 29.6.1991.

2. After careful consideration of the points raised in the review petition, and the facts and circumstances of the case, we see no reason why the review petition should not be disposed of by circulation and hence, in terms of rule 17(3) of the Central Administrative Tribunal (Procedure) Rules, 1987, we so proceed to deal with and decide it.

3. In O.A. No.17/91 the applicants who are working as Licenced Porters at Thane Railway Station of Central Railway sought a declaration that they are temporary/casual labour and are entitled to all consequential reliefs. By the order dated 30.4.1991 we held that there was no way in which the applicants can be considered to be holders of Civil Posts in the Union, and, therefore, held that we have to jurisdiction in respect of this application and had summarily rejected it.

4. Under Order XLVII, Rule 1, CPC a person

aggrieved by a decision may apply for a review on the ground of 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 decision was taken, or on account of some mistake or error apparent on the face of the record, or for any other sufficient reason.

5. A review of the judgment and order dated 30.4.91 is now sought on the ground that in Narayanan V. Southern Railway, 1979 KLT 851, the Kerala High Court had held that Licenced Railway Porters are Railway employees.

6. We are of the opinion that this ground does not come within the perview of review as mentioned. We are also not satisfied that the judgment now sought to be relied on could not have been produced at the time when the case was decided.

7. In Sow. Chandra Kanta V. Sheikh Habib (AIR 1975 SC 1500) the Supreme Court has held that:

"... once an order has been passed by this Court a review thereof must be subject to the rules of the game and cannot be lightly entertained. A review of a judgment is a serious step and reluctant resort to it is proper only where a glaring omission or patent mistake or like grave error has crept in earlier by judicial fallibility."

Again in Aribam Tuleshwar Sharma V. Aribam Pishak Sharma, the Supreme Court has held that:

"... there are definitive limits to the exercise of the power of review. The power of review may be exercised on the discovery of new and important matter or evidence which after the exercise of due diligence was not within the knowledge of the person seeking the review or could not be produced by him at the time when the order was made; it may be exercised where some mistake or error apparent on the face of the record is found; it may be exercised

also

on any analogous ground. But, it may not be exercised on the ground that the decision was erroneous on merit. That would be the province of a Court of Appeal. A power of review is not to be confused with appellate power which may enable an Appellate Court to correct all manner of errors committed by the subordinate court."

8. Quite apart from this what the Kerala High Court have held in Narayanan's case (supra) is that "there is, therefore, no room for doubt that there is a relationship of employer and employee between the Railway Administration and the Licenced Porters". It has not been held that Licenced Porters are holders of civil posts under the Union. It is only by being holders of civil posts under the Union that Licenced Porters could have come within our jurisdiction.

9. In this view of the matter, we see no merit in the review petition. It is, accordingly, dismissed.

T. Chaudhuri
(T C REDDY)
MEMBER (J)

P. S. Chaudhuri
(P S CHAUDHURI)
MEMBER (A)

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