

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,

MUMBAI BENCH, MUMBAI.

REVIEW PETITION NO. 21 of 1997

IN

ORIGINAL APPLICATION NO. 1037/1994.

Coram: Hon'ble Shri M.R.Kolhatkar, Member(A).

H.M.Nimal, & Another.

... Applicants
(Original Respondents)

V/s.

Union of India & Ors.

... Respondents
(Review Petitioners).

ORDER ON REVIEW PETITION BY CIRCULATION Dt. 20.2.1997.

Per Shri M.R.Kolhatkar, Member(A)

In this Review Petition filed by the original respondents against the Judgment dt. 16th August, 1996 it has been contended that the said Judgment suffers from an error apparent on the face of record and is therefore liable to be reviewed. The Judgment was received by the respondents on 22.8.1996 and the Review Petition is required to be filed within a period of 30 days and thus there is a delay of four months and 8 days in filing the Review Petition. The Respondents have filed M.P. 78/97 for condonation of delay. In this M.P. they have explained the ^{departmental} procedure of filing the R.P. which is time consuming and have also relied on the Supreme Court Judgment reported in JT 1996(7) SC 204 in the case of Special Tahasildar Land Acquisition V/s. K.V.Ayisumma where the Hon'ble Supreme Court has stated that the delay may be condoned in the interest of justice to correct the mischief of successful management of delay. Considered the M.P. The delay condoned.

M.P. allowed.

2. On merits, the contention is that the Tribunal erred in assuming that the applicant was appointed as Trade Apprentice on 16.7.1989 and was absorbed in the Railway as Khalasi, which ~~is~~ is factually incorrect because the Respondents have pointed out in the written statement that the applicant was for the first time appointed to Group 'D' post of Khalasi on 9.6.1993. This contention in the Review Petition is not borne out by perusal of the Judgment. In para 1 of the Judgment the contention of the applicant regarding his selection as Trade Apprentice was noted, but in para 2 the contention of the respondents that the applicant had worked as a regular Railway Servant for only two months when his father retired was also noted. In fact nothing in the Judgment turned on the appointment of the applicant as Trade Apprentice on 16.7.1989. ~~In fact,~~ The Tribunal ~~was~~ at all required to not grant the relief of regularisation of the quarters on father to son basis on the footing that all conditions relating to regularisation had been fulfilled. The Tribunal took note of the latest development viz. that the General Manager had passed an order on 12.1.1995 allotting a Type-I Railway Quarter to the applicant on out of turn basis and the Tribunal only granted relief in view of the latest development plus the appointment of the applicant No.2 as Ticket Checker a Group 'C' post. Keeping in view the ratio of case law viz. W.A.Madan & Another V/s. Union of India & Others O.A. No.841/94 decided ^{by Bombay Bench} on 24.1.1995, Anil Shankar V/s. Union of India, O.A.276/92 decided on 20.10.1992 which was a Judgment of the Jodhpur Bench

...3.

of the Tribunal and Savita Samvedi V/s. Union of India
[1996 SCC (L&S) 521] which was a Supreme Court Judgment.
The Tribunal held that considering the ratio of these
Judgments and considering that the applicant No.2
who was occupying Quarter of Type-II ~~and was~~ subsequently
became eligible for allotment of Quarter of Type-II and
already
~~was~~ was occupying Quarter of Type-II which was allotted
to his father should not be disturbed and was entitled
to the relief of regularisation of Type-II Quarter
keeping in view the ratio of the Judgment referred to
above. There is, therefore, no error apparent on the
face of the record in the Judgment. The R.P. has no
merit and is therefore dismissed by circulation as is
permissible under the Rules. Both M.P. 78/97 and
R.P. 11/97 stand disposed of.

M.R. Kolhatkar

(M.R. KOLHATKAR)
MEMBER (A).

B.

dtl 20/2/97
Order/Judgment despatched
to Applicant/Respondent (s)
on 22/2/97

28/2/97