

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH, BOMBAY

1. R.P.NO. 82/95 in DA.No. 478/94
2. R.P.NO. 83/95 in DA.No. 1126/94

1. J.S.Gurav ... Applicants
2. Ganpat B. Talekar

V/S.

Union of India & Ors. ... Respondents

CORAM: Hon'ble Vice Chairman Shri Justice M.S.Deshpande
Hon'ble Member (A) Shri P.P.Srivastava

Tribunal's Order By Circulation
(PER: P.P.Srivastava, Member (A))

Dated: 25.9.95

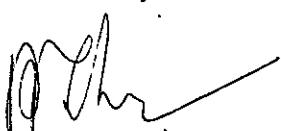
This is a review petition filed for reviewing our order passed in M.A.No. 448/95 in DA.NO. 478/94. In the Original Misc. Application the following orders were passed on 18.8.1995.

" Shri A.Ansari for the applicant.
Shri N.K.Srinivasan for the respondents.

No interim relief but liberty to the applicant if he so chooses to approach the Industrial or Labour Court since the notice has been given under Section 25 (f) of the Industrial Disputes Act. Status-quo, however, to continue for four weeks to enable the applicant to pursue the matter before the Industrial Court.

Copy of the order be given to both the sides."

The applicant has not brought out any new facts in the review application which could not be produced at the time of hearing of the Misc.Application nor the applicant has pointed out any error apparent on the face of record. Moreover, the order passed in Misc.Application gives, liberty to the applicant to approach the Industrial or Labour Court. We do not see any reason to review this order. The review application is, therefore, dismissed.


(P.P.SRIVASTAVA)

MEMBER (A)


(M.S.DESHPANDE)

VICE CHAIRMAN

MRJ.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

BOMBAY BENCH

REVIEW PETITION NO. 82 OF 1995

I N

M. A. NO. 448 of 1995

I N

O. A. NO. 478 of 1994

J. S. Gurav

...Applicant.

v/s.

Union of India & Ors.

...Respondents.

APPLICATION FOR REVIEW OF
THE ORDER DATED 18-8-1995.

MAY IT PLEASE YOUR LORDSHIPS.

The abovenamed Petitioner beg to prefer this Review Petition for review of the order dated 18-8-1995 passed by this Hon'ble Tribunal per Hon'ble Justice Shri M.S.Deshpande (V.C.) and Hon'ble Shri P.P.Srivastava Member (A) in the above case for which no Appeal has been preferred.

1. The Petitioner states that the abovementioned Miscellaneous Application came up for hearing on 18-8-1995 and this Hon'ble Tribunal after hearing the arguments of the advocates, was pleased to reject the M.A. for grant of Interim Relief on the ground that the Notice has been

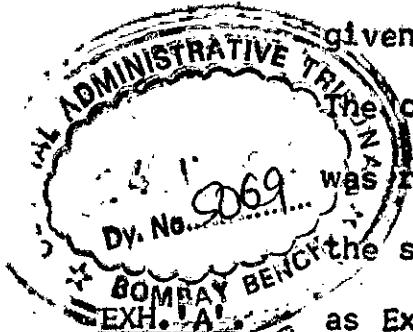
given under Section 25(f) of the Industrial Disputes Act,

The certified copy of the Tribunal's order dated 18-8-1995

was received by the Petitioner on 22-8-1995. A copy of

the said order dated 18-8-95 is annexed herewith and marked

as Exhibit 'A'.



2. The Petitioner submit that the abovementioned case was filed for a mandatory order that the Petitioner be regularised as regular Table Boy in scale Rs. 750-940 against the existing regular vacancies pursuant to the decision of the Supreme Court in M.M.R.Khan's case reported in 1990 SCC(L & S) 632 and the Railway Board's letter dated 18-5-1990 (Exhibit 'A' to the O.A.). This Hon'ble Tribunal has also decided a similar identical case being O.A. No. 562 of 1990 by it's judgement dated 4-7-1991 (Exhibit 'B' to the O.A.).

3. The Petitioner submits that the following submissions which are vital facts and which have effect to change the nature of the order dated 18-8-95 passed by this Hon'ble Tribunal, was not available with the petitioner at the time of hearing of the M.A. As such the same though relevant were not submitted and therefore not taken into consideration while passing the order dated 18-8-95. The Petitioner therefore submit and request to review the case taking into consideration the submissions made hereinbelow.:

4. The Petitioner submits that the above O.A. came up for admission and grant of Interim Relief on 27-5-1994. The petitioner submits that the matter came up before the same Division Bench which was pleased to admit the O.A. and notice was issued to Respondents and liberty to the Applicant was granted to ask for the Interim Relief if his services are likely to be terminated.



5. The Petitioner states that by a Notice dated 6th June, 1995 the Respondents issued order of termination of the Petitioner. The Petitioner therefore as per order dated 27-5-1994 filed a M.A.No. 448 of 1995 for grant of Interim Relief. The grounds for seeking Interim Relief was as under:

- i. Applicant was appointed since 1985 and continuously working as Temporary Table Boy without any break in service and with unblemish record.
- ii. The canteen is part and parcel of the Railway Administration.
- iii. There are 4 vacancies existing(admitted by the Respondents).
- iv. It is the practice of the Respondents to regularise the Temporary Canteen Boys against the vacancies. Shri Sanjay and Vijay two such Temporary Canteen Boys were regularised against the vacancies.
- v. Provident Fund was deducted from their wages like the other regular canteen Boys.
- vi. The Petitioner's case is covered by the Supreme Court's decision in M.M.R.Khan's case reported in 1990 SCC (L & S) 632 and the judgement dated 4-7-91 passed by this Hon'ble Tribunal in O.A. No. 562 of 1990 and the order dated 14-1-1994 in O.A. No. 1083 of 1994 filed in this Hon'ble Tribunal.

6. The Petitioner submits that No Interim Relief is granted by this Hon'ble Tribunal in this case for the reason that the service of the Petitioner is sought to be terminated by Notice under Section 25 (f) of the Industrial



Disputes Act. i.e. on the ground of jurisdiction.

7. The Petitioner submits that maintainability of the Application filed by the Casual Labour when terminated under Section 3(q)(i)(ii) and 14(i)(b) ~~has~~ of the ~~Administrative~~ ~~Tribunals~~ ~~Act~~ 1985 has been decided by the Full Bench of the Principal Bench,

New Delhi in Rehmat Ullah Khan & Ors v/s Union of India & Ors reported in Full Bench Cases Vol. I page 323 relevant paras 12, 24 and 28. The extracts of paras

Exh. 'B'. 12, 24 and 28 is annexed herewith and marked as Exhibit 'B'.

8. The Petitioner submits that abovementioned decision of the Full Bench/Principal Bench, New Delhi could not be brought to the notice of this Hon'ble Tribunal as the same was not in the knowledge of the Petitioner at the time of the hearing of this case.

9. The petitioner therefore submit that there are sufficient reasons as set out herein that this Hon'ble Tribunal ought to review the aforesaid order dated 18-8-95.

10. The certified copy of the aforesaid order dated 18-8-95 was received by the Petitioner on 22-8-95. As such the Review Petition as filed is in time.

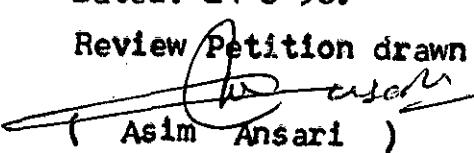
11. In view of the submissions made hereinabove the Petitioner herein prays that this Hon'ble Tribunal may be pleased to

- a. Review the order dated 18-8-95 (Exhibit 'A') and pass fresh order.
- b. Direct the Respondents to maintain Status Quo ^{as granted to continue} pending hearing and final disposal of this case.
- c. Direct the Respondents to keep one post vacant in the existing vacancies pending final hearing and disposal of this application.

Place: Bombay.

Dated: 24-8-95.

Review Petition drawn by.


(Asim Ansari)

J. S. Gorai
Signature of the Petitioner.

VERIFICATION

I, J. S. Gurav, the abovenamed petitioner do hereby verify that what is stated hereinabove are true facts to the best of my knowledge, belief and information and upon legal advice and I believe the same to be true and correct.

Place : Bombay.

Dated : 24-8-95.

J. S. Gurav
Signature of the Petitioner.

