

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH

Original Application No: 1041 OF 1997.

Date of Decision: 01.04.1999.

U. A. Khan,

Applicant.

Shri R. N. Pandya,

Advocate for
Applicant.

Versus

Union Of India & Others,

Respondent(s)

Shri S. C. Dhavan,

Advocate for
Respondent(s)

CORAM:

Hon'ble Shri. D. S. Baweja, Member (A).

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- (1) To be referred to the Reporter or not? *7*
- (2) Whether it needs to be circulated to other Benches of the Tribunal? *f*

D. S. Baweja
(D. S. BAWEJA)
MEMBER (A).

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CENTRAL ADMINISTRATIVE TRIBUNAL

MUMBAI BENCH

ORIGINAL APPLICATION NO.: 1041 OF 1997.

Dated this Thursday, the 1st day of April, 1999.

CORAM : HON'BLE SHRI D. S. BAWEJA, MEMBER (A).

U. A. Khan (Retired),
C/o. Shri Rohinkumar N.
Pandya, Advocate,
36/A, Veer Bhuvan,
Hughes Road,
Mumbai - 400 007.

... Applicant

(By Advocate Shri R.N. Pandya)

VERSUS

1. Union Of India through
The Secretary,
Railway Board,
Rail Bhavan,
New Delhi - 110 001.

2. The General Manager,
Central Railway,
Mumbai C.S.T.

3. The Sr. Divnl. Accounts
Officer,
Central Railway,
Bhusawal,
Dist. Jalgaon,
Pin - 425 20.

4. Divisional Railway Manager,
Central Railway, Bhusawal.

5. The Financial Advisor &
Chief Accounts Officer,
Central Railway (H.Q. Office)
New Administrative Building,
Opp: Time of India Office,
Mumbai C.S.T.

... Respondents.

(By Advocate Shri S. C. Dhavan)

OPEN COURT ORDER

! PER.: SHRI D. S. BAWEJA, MEMBER (A) !

The applicant while working as a Junior Clerk
in the office of the Sr. Divisional Accounts Officer,
Central Railway, Bhusawal, has filed this O.A.

The case of the applicant is, that he has been discharging the duties of a higher grade post but he has not been paid the officiating allowance for the same. Therefore, the present O.A. has been filed on 18.11.1997 seeking the relief of directing the respondents to grant officiating allowance from 01.09.1975 onward and make the payment of arrears thereof with interest at the rate of 18% per annum with effect from 01.09.1975 till the date of his retirement i.e. 30.09.1990 and thereafter with interest @ 21% till the date of filing of the application.

2. Heard the arguments of Shri R. N. Pandya, the Learned Counsel for the applicant and Shri S. C. Dhavan, the Learned Counsel for the respondents.

3. The applicant has not brought on record any order through which he was asked to officiate in the higher grade post. No details of the post, against which the applicant has been working, has also been indicated. The applicant has even not mentioned in which grade of the post he had been officiating. Further, the claim pertains to the period starting from 01.09.1975 onwards and the applicant has not explained as to why he has agitated the matter after more than 20 years. No application for condonation of delay has been filed. The reliefs prayed for are highly barred by limitation. In view of this, the present O.A. cannot be considered as maintainable.

2. The case of the applicant is, that he has been discharging the duties of a higher grade post but he has not been paid the officiating allowance for the same. Therefore, the present O.A. has been filed on 18.11.1997 seeking the relief of directing the respondents to grant officiating allowance from 01.09.1975 onward and make the payment of arrears thereof with interest at the rate of 18% per annum with effect from 01.09.1975 till the date of his retirement i.e. 30.09.1990 and thereafter with interest @ 24% till the date of filing of the application.

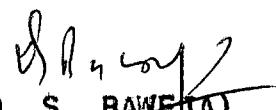
3. Heard the arguments of Shri A. M. Pandya, the learned Counsel for the applicant and Shri S. S. Divan, the learned Counsel for the respondents.

3. The applicant has not brought on record any order through which he was asked to officiate in the higher grade post. No details of the post, against which the applicant has been working, has also been indicated. The applicant has even not mentioned in which grade of the post he had been officiating. Further, the claim pertains to the period starting from 01.09.1975 onwards and the applicant has not explained as to why he has agitated the matter after more than 20 years. No application for condonation of delay has been filed. The reliefs prayed for are highly barred by limitation. In view of this, the present O.A. cannot be considered as maintainable.

4. The respondents have also made a plea that since the claim for officiating allowance pertains to the period from 01.09.1975 onwards, the matter is beyond the jurisdiction of the Tribunal, as the claim pertains to the period earlier than the three years from the setting up of the Central Administrative Tribunal. I endorse the submission of the Counsel for the respondents and the application is also not maintainable on this account.

5. Even otherwise, on merits also the O.A. does not survive. As indicated earlier, no details of the orders through which the applicant was asked to officiate in a higher grade post, for several years have been furnished and such a claim in the absence of any order is not tenable.

6. In view of the above discussions, the O.A. stands dismissed as barred by limitation, as not being within the jurisdiction of this Tribunal and also lacking merits. No order as to costs.


(D. S. BAWEDA)
MEMBER (A).

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The respondents have also made a plea that since the claim for officiating allowance pertains to the period from 01.09.1975 onwards, the matter is beyond the jurisdiction of the Tribunal, as the claim pertains to the period earlier than the three years from the setting up of the Central Administrative Tribunal. I endorse the submission of the Counsel for the respondents and the application is also not maintainable on this account.

5. Even otherwise, on merits also the C.A. does not survive. As indicated earlier, no details of the orders through which the applicant was asked to officiate in a higher grade post, for seven years, have been furnished and such a claim in the absence of any order is not tenable.

6. In view of the above discussions, the C.A. stands dismissed as barred by limitation, as not being within the jurisdiction of this Tribunal and also lacking merits. No order as to costs.

(D. S. BALEGA)
JUDGE (A)

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH

R.P.NO. 33/99 in
Original Application No: 1041/97

12.10.99
Date of Decision:

U.A.Khan

Applicant.

Advocate for
Applicant.

Versus

Union of India & Ors.

Respondent(s)


Advocate for
Respondent(s)

CORAM:

Hon'ble Shri. D.S. Baweja, Member (A)

Hon'ble Shri.

- (1) To be referred to the Reporter or not? ☒
- (2) Whether it needs to be circulated to other Benches of the Tribunal?
- (3) Library


(D.S. BAWEJA)
MEMBER (A)

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL

MUMBAI BENCH, MUMBAI

R.P.No. 33/99 in OA.No.1041/97

Dated this the 12th day of October 1999.

CORAM : Hon'ble Shri D.S.Baweja, Member (A)

U.A.Khan,
Near Hindustani Masjid,
Shivaji Nagar,
Bhusaval.

... Applicant

V/S.

Union of India through
The General Manager,
Central Railway,
Mumbai and Ors.

... Respondents

ORDER

{Per : Shri D.S.Baweja, Member (A)}


This Review Application has been filed by the applicant seeking review of order dated 1.4.1999 in OA.No.1041/97.

2. The applicant has filed the Review Application on 27.8.1999 against the order dated 1.4.1999. The copy of the order was issued on 16.4.1999 and was received by the applicant on 21.4.1999 and therefore the Review Application has been filed after more than four months. As per the rules, the Review Application is required to be filed within a period of one month from the date of order. The applicant has filed a M.P. for condonation of delay in filing the Review Application. In view of the reasons advanced for delay, the delay in filing the Review Application is condoned.



3. On merits, the grounds advanced in the review application urging the review of the order dated 1.4.1999 have been carefully gone into. The power of review can be exercised when there is a discovery of new and important matter or evidence which after due diligence could not come within the knowledge of the person seeking review or could not be produced at the time of passing of the order. This power could also be exercised when there is some mistake or error apparent on the face of the record. However, a review cannot be exercised on the ground that the decision is erroneous on merits. Review application cannot be an appeal in disguise. In the present review application, I find that none of the parameters under which the power of review can be exercised are obtainable. The applicant has only pleaded what has been earlier brought out in the OA. No error apparent on record has been brought out. No new fact has been brought out. The entire pleadings of the applicant are to bring out that the order is erroneous on merits and requires a review to reconsider the matter on merits again and record fresh findings. The review application is more of an appeal in disguise.

4. In the light of the above, I do not find any merit in the Review Application and the same is dismissed accordingly.


(D.S. BAWEJA)
MEMBER (A)