

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH
AT HYDERABAD

Review Application No. 25/94

IN
Original Application No.1572/93.

Dt. of Order:11-6-96.

~~between :-~~

K.Venkateswara Rao

... Petitioner/Applicant
And

1. General Manager, S.C.Railway,
Rail Nilayam, Sec'bad.
2. Divisional Superintendent,
S.C.Railway, Vijayawada.
3. Dy.Chief Engineer (Construction),
South Eastern Railway,
Visakhapatnam.
4. Sr. Personnel Officer, (Construction).
5. Admiral Superintendent, Naval Dock
Yard, Visakhapatnam.

... Respondents/Respondents

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Counsel for the Applicants : Shri K.K.Chakravorthy

Counsel for the Respondents : Shri K.Siva Reddy, SC for Rlys

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CORAM:

THE HON'BLE JUSTICE SHRI M.G.CHAUDHARI : VICE-CHAIRMAN

THE HON'BLE SHRI R.RANGARAJAN : MEMBER (A)

(Orders per Hon'ble Justice Shri M.G.Chaudhari,
Vice-Chairman). *he*

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(Orders per Hon'ble Justice Shri M.G.Chaudhari,
Vice-Chairman).

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The applicants seeks review of the order passed in the O.A. dt.10-2-94. First ground stated is that some material facts were omitted due to mistake at the time of arguments as they were not readily available and the applicant came to know the same at a later date. These facts are supposed to be interalia that ^{as} he has resigned due to sickness he could not go to Vijayawada, and this fact was mentioned in the application for permission to join ^{that} the Respondent No.5 service that another works Supervisor was issued a certificate but Respondents acted differently in respect of the applicant that the respondents ought not to have insisted on a certificate from Railways and the railways were denying to issue the same with ulterior motive. In so far as these grounds are concerned they are not sufficient for review of the original order. The fact regarding ~~to the~~ contentions of the application of the applicant given way back in 1967 and the fact that another officer was given the certificate cannot now be taken into account, ~~fresh~~. Then it is only the argument that the Railways should not insist on the certificate, which question also does not survive after the earlier judgement.

2. It is however strongly urged by Shri K.K.Chakravorthy, that there is another ground which is substantial viz.,

that the Respondent No.4 had avoided the production of records and had not made any efforts to search the same and produce them at the hearing of the O.A., which was necessary to determine whether permission was given to the applicant to join the other organisation. He further submits that the records were required to be preserved for 30 years and the Respondent No.4 should have filed the same. This aspect however was duly considered in the Original Judgement. Adequate reasons have been given for which it was held that no adverse inference can be drawn when the records were said not to be available. Such view can always be taken and it does not constitute error on the face of the record more particularly when the applicant has not sought in the petition ^{to} ~~that~~ establishing the availability of the records.

3. The applicant was granted permission to produce additional record in the review petition on 7-7-94. Although he produced a copy of his letter dt.15-7-94, that is a subsequent event to the judgement and ^{an} attempt to create new evidence. That is neither relevant nor material for the original O.A. nor can it be said that it is discovery of material be bestowed with the material record subsequent to the judgement of already existing material about which the applicant was unaware of the same even after the due diligence when the O.A. was decided. We therefore see no merits in this R.A. and the same is dismissed.


(R.RANGARAJAN)
Member (A)


(M.G.CHAUDHARI)
Vice-Chairman

Dated: 11th June, 1996.
Dictated in Open Court.

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Ajit Singh
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Ajit Singh