

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH, JAIPUR.

RP 32/94 and MA 218/94 : Date of order 10.11.94
in TA 121/92

Narsingh Meena : Petitioner

V/s

Union of India & Others : Respondents

Mr. Prahlad Singh : Counsel for the petitioner

Mr. M. Rafiq : Counsel for the respondents.

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Hon'ble Mr. Gopal Krishna, Member (Judicial)

Hon'ble Mr. O.P. Sharma, Member (Administrative)

PER HON'BLE MR. GOPAL KRISHNA, Member (Judicial)

This is a review petition filed by Narsingh Meena seeking a review of the order dated 30.3.94 in TA no. 121/92.

2. We have heard the learned counsel for the petitioner and the learned counsel for the respondents and have carefully perused the records.

3. The petitioner has prayed for a review of the aforesaid order on the following grounds. Firstly, that the counsel for the applicant could not appear before the Tribunal at the time of hearing and in that event the case of the applicant could not be placed before the Tribunal. This ground is unsustainable and it does not at all fall within the purview of order 47 Rule 1 of the Code of Civil Procedure. The second ground raised by the petitioner is that the termination of the petitioner's services was without any reason and that before an employee is considered to be quasi-permanent, his case is to be considered thrice and any adverse result has to be communicated to the incumbent vide Government of India's decision in relation to Rule 5 of the Central Civil Services (Temporary Service) Rules, 1965, but the same was not done in the case of the applicant. Thirdly, the order of termination was against the principles of natural justice and even a temporary employee is entitled to hearing before

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his services are terminated. Fourthly, after the termination of the services of the applicant, many incumbents have been recruited in the service of the Department and even juniors were retained and therefore the impunged order is not tenable as being contrary to the provisions contained in Article 14 and 16 of the Constitution. The sum and substance of the grounds of review is that the impunged judgement is contrary to law and it requires to be reviewed. The learned counsel for the petitioner has placed reliance on (1986) 3 SCC (Jarnail Singh & Others Vs. State of Punjab and others) and (1986) 4 SCC 141 (Smt. Rajinder Kaur Vs. State of Punjab and Another). The facts contained in these two authorities are quite different and they are distinguishable from the facts of the case in hand. The learned counsel for the petitioner has also relied on AIR 1979 SC 429 at page 434 wherein it was observed by their Lordships of the Supreme Court as follow -

"If the services of a temporary Government servant are terminated in accordance with the conditions of his service on the ground of unsatisfactory conduct or his unsuitability for the job and or for his work being unsatisfactory or for a like reason which marks him off a class apart from other temporary servants who have been retained in service, there is no question of the applicability of Art. 16."

4. The power of review may be exercised on the discovery of new and important matter or evidence which after the exercise of duly 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 when there is some error apparent on the face of record. It may also be exercised on any other analogous ground. However, the power of review should not be exercised if the decision is erroneous on merits. In the present case

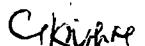
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all the contentions raised by the petitioner in the application were considered even though the learned counsel for the applicant was not present on the date of hearing. There appears to be no error apparent on the face of record. We do not find any legal infirmity in the impugned order. The grounds stated in this petition do not justify a review of the order. The review application is devoid of merits and it is hereby dismissed.

5. MA no. 218/94 for stay is also dismissed.


(O.P. SHARMA)

MEMBER (A)


(GOPAL KRISHNA)
MEMBER (J)