

16

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
JAIPUR BENCH : JAIPUR BENCH

Date of order : 08.09.2000

R.A. NO. 15/95

in

O.A. NO. 194/94

in

M.A. NO. 27/95

Gopi Singh son of Shri Pancha Ram aged 32 years resident of 52, Indra Colony, Heeradas, Bharatpur, at present working in the office of Sub Divisional Officer (telephones), Bharatpur, as Despatch Clerk.

... Applicant.

versus

1. Union of India through the Secretary, Telephone Department, Sanchar Bhawan, New Delhi.
2. Sub Divisional Officer (Telephones), Bharatpur.

... Respondents.

Mr. A.C. Upadhyay, Counsel for the applicant.

Mr. V.S. Gurjar, Counsel for the respondents.

CORAM:

Hon'ble Mr. Justice B.S. Raikote, Vice Chairman.

Hon'ble Mr. N.P. Nawani, Administrative Member.

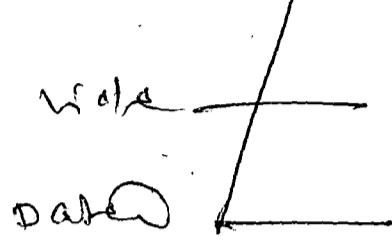
: O R D E R :

(Per Hon'ble Mr. Justice B.S. Raikote)

This Review Petition is filed for reviewing the order of this Tribunal dated 01.02.95 passed in O.A. No. 194/94. That was a case in which the applicant sought a direction to the respondents to pay him the salary of despatch clerk on the basis of a verbal order, from 3.4.86. He stated that he was a Peon, but was assigned the duties of despatch clerk on the basis of a verbal order from 3.4.86. Thus, he had worked for about 8 years as despatch clerk and he sought for a direction to the respondents to pay the applicant the salary of despatch clerk on the principle of "equal pay for equal work". That application had come up before this Tribunal on 1.2.95 and on that day the applicant or his counsel were not present. After perusing that application and after hearing the respondents' counsel, the said

Fenced up
Nimabari
over V.S. Shingar
20-9-2000

copy sent to contractor



Address
29/12/00

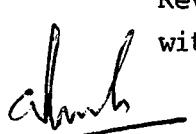
application was dismissed in default on the ground that there was no documentary proof in support of applicant's contention that he was assigned the duties of a clerk. In the absence of any cogent proof of his working as a clerk, the relief as prayed for in that application, could not be given to the applicant and that application was accordingly dismissed. This is the order sought for review in the present review application.

2. The respondents have filed their reply, stating that this is not a fit case for review, since there is no error apparent on the face of the record.

3. Heard the learned counsel for the parties.

4. Both from the arguments and the pleadings of the applicant, we find that this is not a fit case for review. Applicant's specific contention is that he was no doubt, a Peon at the relevant point of time, but he was assigned duties of despatch clerk on the basis of verbal order. He has not produced any documents showing that he was assigned any duty of clerk or he was assigned additional charge of the post of despatch clerk. The applicant has filed affidavits of 2 persons, by name S/Shri Yad Ram and Raj Kumar, stating that the applicant was working as despatch clerk from 1986. But, in our opinion, it is not possible for us to consider any additional documents in review application. Admittedly, these affidavits were not filed alongwith the original application. Moreover, such affidavits cannot be taken as a reliable document to say that the applicant was assigned the duties of a clerk. Whenever a person is put to any additital charge in any office or made incharge of any office, it is done by a written order and not on the basis of oral arrangement. Having regard to these circumstances only, his original application No. 194/94 has been dismissed. However, the case of the applicant is that neither the applicant nor his counsel were present on that day when the O.A. was disposed of. This Tribunal should have dismissed the case for default instead of deciding it on merits. But from Rule 15 of the Central Administrative Tribuna (Procedure) Rules, 1987, we find that whenever the applicant or his counsel are absent, the matter can be either dismissed in default or it can be decided on merits. In this case, the Tribunal decided the matter on merits. Hence, we find there are no merits in this review application. Accordingly, we pass the order as under:-

"Review Application is dismissed. But in the circumstances,
without costs."


(N.P. NAWANI)
Adm. Member


(B.S. RAIKOTE)
Vice Chairman