

CENTRAL ADMINISTRATIVE TRIBUNAL
JAIPUR BENCH : JAIPUR

Date of Order : 27.07.2004

R. A. No. 17/2004 with M. A. No. 177/2004.

IN

O. A. NO. 544/2000.

Narain Lal S/o Shri Bhamani Lal, aged about 56 years,
r/o 15/60, Adarsh Mohalla, Purani Mandi, Ajmer.

... Applicant.

v e r s u s

1. Union of India through its Secretary, Ministry of Information & Broadcasting, Sanchar Bhawan, Ashok Marg, New Delhi.
2. The Chief General Manager, Telecom Raj Telecom Circle, Jaipur.
3. The Divisional Engineer, Telecom, Ajmer, G.M.T.D. Ajmer.

... Respondents.

Mr. Sunil Samdaria counsel for the applicant.

CORAM

Hon'ble Mr. M. L. Chauhan, Judicial Member.
Hon'ble Mr. A. K. Bhandari, Administrative Member.

: O R D E R (ORAL) :

The applicant has filed this Review Application, persuant to the order dated 06.04.2004 passed by the Hon'ble High Court of Rajasthan in D.B. Civil Writ Petition No.1970/2004. In order to decide the matter in controversy, it will be useful to quote the entire portion of the order which thus reads as under :-

" Learned counsel for the petitioner submits that though there were similar charges in case of other persons also who gheraoed Mr. Gupta, but lessor punishment has been awarded to them in comparison to the punishment awarded to the petitioner.

From the impugned order, it does not appear

W

that counsel for the petitioner has put forth this argument before the Tribunal and the same does not arise out of the impugned order of Tribunal.

In case there is any averment or ground for discrimination raised in the O.A. and if that has not been considered, it can at the best be a case of review petition. He can take steps in accordance with law.

On these admitted facts, no case is made out for interference in the impugned order.

Consequently the writ petition stands dismissed at admission stage."

2. From the perusal of the order of Hon'ble the High Court as quoted above, it is evident that the Review Application can be entertained only if there is any averment or ground for discrimination regarding awarding of lesser punishment as compared to other persons similarly situated raised in the OA and if that has not been considered. In the Review Application, the applicant has stated that there was a pleading of discrimination in petition and rejoinder and in fact in Para 2.4 at Page 4 the review applicant has reproduced the relevant portion where such contention has been raised in original OA and rejoinder which is in the following terms :-

"Para 4 of the petition -

The Charge Sheet of similar nature was issued to 5 other employee namely Shri V. P. Sharma, Ashok Yadav, Ratilal, Birdshi Chand and Hari Singh. Thus, out of 50 persons named in the F.I.R. only 6 persons were chosen to be charge sheeted.

Para 4 of the Rejoinder -

That the contents of para No.4.9 of the reply to the Original Application are denied. It is reiterated that the applicant was meted discriminatory treatment and other persons who are involved in the incident were left without being taken any action against them."

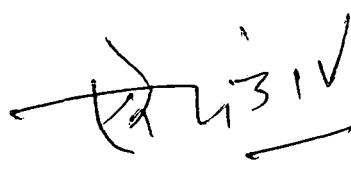
3. From the portion quoted above, it is evident that the applicant has pleaded ground of discrimination regarding issuance of charge sheet in respect to only 6

10/

persons qua 50 persons involved in the incident. However, in rejoinder it has been stated that the applicant was given discriminatory treatment and other persons who are involved in the incident were left without being taken any action against them. Thus, from the portion quoted by the applicant in the petition as well as in the rejoinder, the applicant has not pleaded that persons similarly situated have been awarded lesser punishment in comparison to the punishment awarded to the review applicant. Thus, according to us the review applicant has not made out any ground for reviewing the judgement dated 20.08.2003 rendered in OA No.544/2000. However, from the perusal of the order of Hon'ble the High Court and also it is admitted case that such a contention was not argued by the original counsel in the OA before the Tribunal. Even on this ground, the Review Application is liable to be dismissed as it is settled position that the contention which is not raised by the learned counsel for the applicant and on which no finding of the Court is invited, shall be deemed to have been rejected.

4. Viewing the matter from any angle, the review applicant has not made out any case for reviewing the order dated 24.08.2003 passed by this Tribunal in OA NO.544/2000. Accordingly, the Review Application is dismissed.

5. In view of the order passed in RA No.17/2004, no order is required to be passed in MA No.177/2004 filed for condonation of delay, which shall stands disposed of accordingly.


(A. K. BHANDARI)
MEMBER (A)


(M. L. CHAUHAN)
MEMBER (J)