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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH, JAIPUR.

Review Application No.2/98

Date of order:29.1.1998

Nand Kishore Jain ⁱⁿ ^{on} (333/95)

: Applicant

Vs.

1. Union of India through the Secretary Ministry of Irrigation & Power, (Water Resources) C30 Complex, Block-II, 8th Floor, New Delhi - 110 001.
2. Chairman, Central Water Commission, F.K.Puram, New Delhi-110 066.
3. Superintending Engineer (Director, Monitoring & Appraisal Directorate), Govt. of India, Central Water Commission, N.Circle, Gayatri Bhawan, Suraj Nagar, Street No.6 Talab Trillo, Jammu.

...Respondents.

PEF HON'BLE MR.O.P.SHAHMA, ADMINISTRATIVE MEMBER.

Shri Nand Kishore Jain has filed this Review Application seeking review of the order dated 26.11.1997 passed by this Bench of the Tribunal in O.A No.333/95, Nand Kishore Jain Vs. Union of India & two others.

2. After going through the Review Application, the order passed by the Tribunal of which review has been sought and the other material on record, we are of the view that this review application can be disposed of without granting any hearing to the parties. Accordingly, it is being disposed of by circulation amongst the Members who had disposed of the O.A in question.

3. In O.A No.333/95, the applicant had challenged the order of dismissal from service and had also raised several issues incidental to the matter of dismissal from service. He had also sought a declaration that the letter dated 29.8.1980 by which he was reinstated in service earlier was not in fact a reinstatement order as it was inconsistent with the rules and in particular FR 54. All the contentions of the applicant were rejected and the O.A was dismissed. In the present review application, the applicant has again agitated the point that the order dated 29.8.1980 should not be treated as an order of reinstatement. The reason in support of his contention is that under FR 54(1), once an order of reinstatement is passed in respect of the Govt. servant who has been dismissed, removed or compulsory retired from service, the authority competent to order reinstatement has also to make a specific order regarding pay and allowances to be paid to the applicant for the period of absence from duty and also on the point whether the period of absence should be treated as period spent on duty or not. In the absence of an order having been passed under FR 54, his joining duty should be treated as re-employment. He has sought this finding by way of review of the Tribunal's order dated 26.11.1997.

4. In the O.A also the applicant had assailed the said communication dated 29.8.1980 as not being a proper order of reinstatement. The Tribunal vide its order dated 26.11.1997 had observed that the communication dated 29.8.1980 was a letter addressed to the applicant by the Superintending

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Engineer, CWC, Jammu, asking him to report for duty to the Executive Engineer, Bursar Investigation Division, Udhampur. It was further observed by the Tribunal that it was the applicant who was seeking reinstatement in service as a result of a decree passed by the Court. Therefore, it was logical for the respondents to send a communication of this nature to the applicant. It was only after the applicant joined duty that the respondents were expected to pass an order regulating the grant of pay and allowances for the period of absence from duty and treatment of the period of absence from duty i.e. whether it was to be treated as a period spent on duty or not. The finding of the Tribunal with regard to the communication dated 29.8.1980 was that there was nothing improper about this communication being sent to the applicant. The absence of any order regarding treatment of the period of absence from duty in terms of F.P. 54(1) did not in any way make the communication as invalid. It may not answer to the formal description of an order of reinstatement but it was an offer to the applicant to join back service. He could have prayed for a further order being passed in terms of F.P. 54(1) after joining duty. In these circumstances, we are of the view that this review application has no merit. The grounds mentioned for seeking review do not fall within the scope of Order XXXVII Rule 1. The review application is dismissed in limine.

By circulation.



(Ratan Prakash)

Judicial Member.



(O.P. Sharma)

Administrative Member.