IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH,

JAIPUR

RA No.18/1997 (OA No. 314/90) and   Date of order: 3-9-1997

MA No. 236/1997

Hacinson H., resident of House No. 1301/1, Near Charan Sansthan School, Makar Wali Road, Ajmer

.. Review Applicant

Versus

1. Union of India through the General Manager, Western Railway, Churchgate, Mumbai.
2. Senior Divisional Operating Supdt., Divisional Railway Manager's Office, Ajmer.
3. Divisional Railway Manager, Ajmer Division, Ajmer.
4. Divisional Traffic Inspector, Western Railway, Ajmer.

.. Respondents

CORAM:

HOn'ble Mr. Gopal Krishna, Vice Chairman

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

ORDER

Per Hon'ble Mr. O.P.Sharma, Administrative Member

Shri Hacinson H. has filed this Review Application under Rule 17 of the Central Administrative Tribunal (Procedure) Rules, 1987 seeking a review and recall of the order dated 17.2.1997 passed by this Bench of the Tribunal in OA No. 314/1990 filed by the applicant.

2. The Review Application has been filed on 30.7.1997. The applicant has stated in the Review Application that copy of the order of the Tribunal was given to the applicant on 19.2.1997. The applicant was hospitalised from 20.2.1997 to 20.4.1997 and thereafter he was advised rest for atleast three months. On becoming fit to move, he approached the counsel and thereafter filed the Review Application immediately. A Misc. Application, No. 236/1997, seeking condonation of delay in filing the Review Application has

also been filed giving more or less the same grounds for seeking condonation of delay. After considering the grounds mentioned by the applicant, we condon the delay in filing the Review Application, in the interest of justice, and proceed to dispose of the Review Application on merits.

3. In OA No. 314/1990 the applicant had prayed that the disciplinary enquiry started on the basis of the chargesheet dated 16.5.1986 be quashed as being illegal, the order dated 27.9.1988 imposing penalty of removal from service may be quashed and the order dated 29.3.1989 passed by the appellate authority may also be quashed and the applicant may be reinstated with back wages from 22.4.1985. There are also certain other prayers incidental to these main prayers in the OA. The Tribunal heard the matter and passed the order dated 17.2.1997 dismissing the OA. The Tribunal considered various averments made by the applicant in the OA as also took note of the rejoinder filed by the applicant to the reply filed by the respondents. The OA had been heard on more than one date before the final order was passed. On the last date namely 3.2.1997 when the OA was heard, the learned counsel for the applicant was not present though his request for adjournment was refused because the case was very old. However, the applicant was present and he had argued the remaining matters, before the Tribunal passed the order disposing of the OA.

4. In the Review Application, various grounds have been raised by the applicant for seeking a review of the order passed by the Tribunal. According to him, certain averments of the applicant were noted in the order of the Tribunal but these were not specifically dealt with. Certain averments of the applicant were also not specifically denied by the respondents and, therefore, these should be deemed to have been admitted by the respondents. In support of this latter

plea, the applicant has cited two judgments of the Hon'ble Supreme Court, one being Nasim Bano Vs. the State of U.P., 1993 AIR SC 2529 and the other being Indian Oil Corporation Vs. Municipal Corporation, 1993 (1) SCC 333. The main ground for seeking review, however, appears to be that the whole case of the applicant depends upon certain documents which were not denied by the respondents by filing reply to the rejoinder of the applicant and the filing of such documents alongwith the rejoinder was not challenged by the respondents. Therefore, these documents should be deemed to have been admitted by the respondents and, therefore, these should be deemed to have been given by the applicant to the respondents, thus absolving him of the liability of being unauthorisedly absent from duty.

5. We have gone through the averments in the Review Application and the material on record carefully. We are of the view that the Review Application can be disposed of by circulation without hearing the parties. We proceed to dispose it of accordingly.

6. The grounds on which disciplinary proceedings were initiated against the applicant, which culminated in the panelty of removal from service being imposed on him, related to his being unauthorisedly absent from duty for certain periods. The order passed by the Tribunal shows that the factual position of the case, as well as the averments of the applicant and those of the respondents were noted and considered in detail and it was, thereafter that the Tribunal came to the conclusion that the OA was liable to be dismissed. The entire issue has been examined by the Tribunal on merits. After specifically dealing with all the important grounds of the applicant for seeking relief, the Tribunal further observed in para 17 that other pleas and averments of the applicant had also been considered but the Tribunal had

found that these were not sufficient to justify a conclusion that there was any substantive irregularity in the enquiry proceedings or the disciplinary proceedings as a whole. A review and recall of the order passed by the Tribunal on the grounds mentioned by the applicant in the Review Application would, therefore, be nothing but a reappreciation of the material on record and would amount to arriving at a conclusion different from that arrived at by the Tribunal earlier. Such a ~~cause~~ Course of action is not permitted while deciding a Review Application. The grounds on which a review is sought are all outside the scope of Order XXXXVII Rule 1 of the Civil Procedure Code. This Review Application has, therefore, no merit and it is dismissed accordingly.

By Circulation.

(O.P.Sharma)

Administrative Member

(Gopal Krishna)

Vice Chairman