

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH,

JAIPUR

R.A.No.7/2001 (CA No.443/93)

MA No.90/2001 (RA No.7/2001)

Date of order:- 8.5.2001

1. Union of India through the Secretary, Ministry of Telecommunication, New Delhi.
2. Chief General Manager, Telecommunications, Rajasthan Telecom Circle, Jaipur
3. The Director General (Posts), New Delhi.

.. Review Applicants

V E R S U S

Prabhati Lal Sharma s/o Shri Chiranjit Lal, aged 58 years, resident of Aggarwali, District Dausa, retired Accountant, Central Telegraph Office, Jaipur.

.. Non-Applicant

Mr. M.Rafiq, counsel for the review applicants.

ORDER

PER HON'BLE MR. N.P.NAWANI, ADMINISTRATIVE MEMBER

This Review Application has been filed to recall/review the order of this Tribunal dated 3.11.2000 passed in OA No.443/93, Prabhati Lal v. Union of India and ors.

2. This Review Application has been filed on 5.3.2001 against the order dated 3.11.2000 rendered in OA No.443/93 i.e. after a gap of more than 4 months. As per Rule 17(1) of the Central Administrative Tribunal

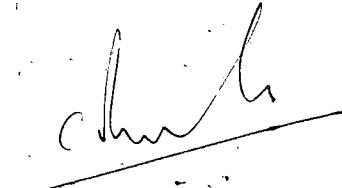


(Procedure) Rules, 1987, 'no application for review shall be entertained unless it is filed within thirty days from the date of receipt of copy of the order sought to be reviewed'. In the present case, the Review Application has been filed, after four months of the date of the decision and, therefore, is badly barred by limitation. We have gone through the Misc. Application No.90/2001 filed by the Review Applicants for condonation of delay. The reasons given for delay are really not convincing in this age of speedy communications, but in the interest of total justice, we have agreed to condone the delay and consider the Review Application on merits.

3. Vide order dated 3.11.2000, this Tribunal had disposed of the said OA by partly allowing it. The operative part of the decision is extracted hereunder:-

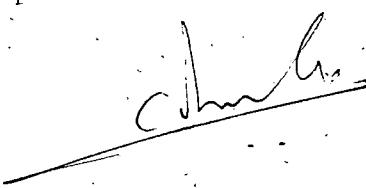
"In the circumstances, we allow the OA partly and direct the respondents to consider extending the benefit under BCR Scheme to the applicant w.e.f. 1.12.1992, unless he is not found fit otherwise, and also grant him consequential benefits i.e. arrears of pay and allowances. This direction may be implemented within three months of receipt of a copy of this order".

4. We have carefully perused the averments made in this Review Application and have also gone through the order delivered by this Tribunal dated 3.11.2000 in OA No. 443/93.

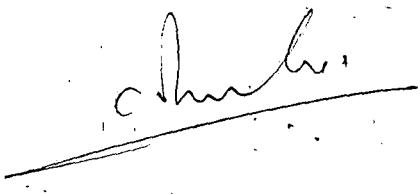


5. The main contention of the review applicants (respondents in OA) is that the Tribunal had partly allowed the OA by relying on the order dated 1.12.1992 of the DG, Posts, New Delhi under which the benefit of BCR was extended to those Accountants who were holding the defunct pay scale, but the applicant in the OA was serving in the Telecommunications Department and, therefore, the benefit extended by order dated 1.12.1992 of the DG, Posts, New Delhi could not have been extended to the applicant in the OA. It has also been mentioned that the applicant in the said OA could not also be given the benefit of this Tribunal's decision dated 29.8.2000 delivered in OA No. 596/95, Hari Charan Sharma v. Union of India and ors., since Shri Hari Charan Sharma was an employee of the Postal Department and not the Telecommunications Department. It has been submitted that the aforesaid important fact could not be brought to the notice of the Hon'ble Tribunal, despite exercise of due diligence, on account of which the order dated 3.11.2000 came to be passed and, therefore, this is a fit case in which powers under Order 47 Rule 1 of the Code of Civil Procedure can be exercised by the Tribunal by ordering rehearing of the OA.

6. While rendering its decision dated 3.11.2000 in OA No. 443/93, this Tribunal had before it a copy of the letter No. STF/6-254/PL/20 dated 10.2.93 from Assistant Director (Staff), Office of the GMT (East), Jaipur addressed to the Assistant General Manager (TT), Office of the Chief General Manager, Rajasthan Circle, Jaipur (Ann. Al of the OA). Even though this letter was inter-office correspondence, it did seek extending similar



benefit to the applicant as was given under DG Posts letter No. 2-22/88-PE(PT) dated 1.12.92. During the hearing of the case, it was not brought out on behalf of the respondents that the said letter of 10.2.93 (Ann. A1 of the OA) was a letter without any foundation within the Department of Telecommunications and even though the employees in the defunct pay scale in the Department of Posts had been extended the benefit of BCR scheme vide the DG Posts, New Delhi letter No. 2-22/88-PE(PT) dated 1.12.92, similar benefit was not extended to the employees of the Department of Telecommunications. It cannot be accepted that this was a fact which after exercise of due diligence would not have been within the knowledge of the respondents and, therefore, the Review Petitioners' case for review of the order dated 3.11.2000 rendered in OA No. 443/93 has no leg to stand. Further, both the Department of Posts and the Department of Telecommunications are off-springs of the erstwhile Department of Posts and Telegraphs and even at present these are two sister Departments function^{ing} under the same Ministry of Communications. It is, therefore, inconceivable that two sister Departments under the same Ministry will have different policies in the matter of extending a benefit under BCR scheme, which seeks to remove stagnation amongst employees of the lower rungs in the Department. It is also an important point for the Department of Telecommunications to consider whether certain employees trapped in a defunct cadre/scale, albeit on their own choice but many many years back, should be allowed to stagnate in the same scale by a responsive and welfare government. Finally, a plain reading of the operative part of the decision dated



3.11.2000 will make it clear that we have deliberately asked the respondents to consider extending (emphasis supplied) the benefit of BCR Scheme to the applicant and, therefore, the Telecommunications Department was within its rights to consider the entire matter as one requiring a policy decision regarding the desirability of extending the benefit given to the employees in the defunct pay scale under the BCR scheme on same lines as has been done by the sister Department viz. Department of Posts.

9. In view of above discussions, we find no justification for recall/review of our order dated 3.11.2000 rendered in OA No. 443/93. The Review Petition is, therefore, dismissed.


(N.P. NAWANI)

ADM. MEMBER


(ASHOK AGARWAL)
CHAIRMAN