

2

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH, JAIPUR.

R.A No.11/99

Date of order: 25/10/99

Mahesh Chand Sharma, S/o Shri Ganesh Sharma, R/o  
Rather Khera, Post Mahukhera, vias Biwai, Distt.Dausa.

...Applicant.

Vs.

1. Union of India through the General Manager, Western Railway, Church Gate, Mumbai.
2. The Divisional Railway Manager, Western Railway, Ajmer Division, Ajmer.

...Respondents.

Mr.N.K.Maloo - Counsel for applicant.

CORAM:

Hon'ble Mr.S.K.Agarwal, Judicial Member.

PER HON'BLE MR.S.K.AGARWAL, JUDICIAL MEMBER.

This Review Application has been filed to recall/review the order of this Tribunal dated 9.9.1999 passed in O.A No. 433/99, Mahesh Chand Sharma Vs. UOI & Anr.

2. Vide order dated 9.9.1999, this Tribunal has dismissed the O.A filed by the applicant at the admission stage.
3. In the O.A filed by the applicant the prayer was to direct the respondents to consider the case of the applicant for suitable employment on compassionate ground.
4. I have perused the averments made in this Review Application and also perused the judgment of the Tribunal dated 9.9.99.
5. The main contention of the applicant in this Review Application is that there are rules prevailing in the Railways for considering the wards of deceased Railway employees for compassionate appointment on attaining the age of majority. The applicant on his attaining majority in the year 1987 should have been considered for appointment on compassionate grounds but the case of the applicant was rejected which required review. There are other grounds mentioned in the review application which I have also perused thoroughly.
6. Section 22(3) of the Administrative Tribunals Act, 1985 confers on an Administrative Tribunal discharging its functions under the Act, the same powers as are vested in a Civil Court under the Code of Civil Procedure while trying a suit in respect inter alia of reviewing its decisions. Sec.22(3)(f) is as under:

"A Tribunal shall have, for the purpose of discharging its functions under this Act, the same powers as are vested in a civil court under the Code of Civil Procedure, 1908 (5 of 1908), while trying a suit, in respect of the following matter, namely:

(f) reviewing its decisions;"

3

7. A Civil Court's power to review its own decision under the Code of Civil Procedure is contained in Order 47 Rule 1, Order 47 Rule 1 provides as follows:

"Application for review of judgment:

- (1) Any person considering himself aggrieved:
  - (a) by a decree or order from which an appeal is allowed, but from which no appeal has been preferred,
  - (b) by a decree or order from which no appeal is allowed, or
  - (c) by a decision on reference from a Court of Small causes, and who, from the discovery of new and important matter or evidence which, after the exercise of due diligence, was not within his knowledge or could not be produced by him at the time when the decree was passed or order made, or on account of some mistake or error apparent on the face of the record, or for any other sufficient reason, desires to obtain a review of the decree passed or order made against him, may apply for a review of judgment to the Court which passed the decree or made the order."

8. On the basis of the above proposition of law, it is clear that power of the review available to the Administrative Tribunal is similar to power given to Civil Court under Order 47 Rule 1 of Civil Procedure Code, therefore, any person who consider himself aggrieved by a decree or order from which an appeal is allowed but from which no appeal has been preferred, can apply for review under Order 47 Rule (1) (a) on the ground that there is an error apparent on the face of the record or from the discovery of new and important matter or evidence which after the exercise of due diligence, was not within his knowledge or could not be produced by him at the time when the decree or order was passed but it has now come to his knowledge.

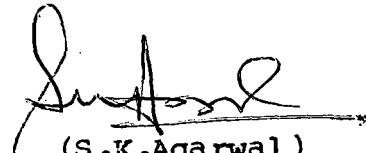
7 1/2  
9. In the instant case, admittedly the father of the applicant died in the year 1977 and the applicant attained majority in the year 1987. After attaining majority, the applicant should have approached the competent authority within one year from the date of attaining the majority.

10. I have given thoughtful consideration to the grounds mentioned by the applicant in the review application and also perused the judgment. In the instant case, I do not find any error apparent on the face of the record or there is no other sufficient reason on the basis of the order delivered by this Tribunal can be reviewed as submitted by the applicant.

11. In Dalla Ram Vs. UOI & Ors. 1998 SCC (L&S) 112, Hon'ble Supreme Court of India has laid down the law after a perusal of consolidated instructions in connection with the appointment on compassionate ground and held that (1) grant of

compassionate appointment to cases of extreme pecuniary and as a matter of alternative course of employment on the death of the employee; (ii) compassionate appointment is to be granted according to the policy; (iii) Tribunal cannot make directions to create a post. Only if vacancies are available; (iv) if the approach is made after a long delay, applications are liable to be rejected.

12. In view of the above, I do not find any basis to review the above order. Therefore, this Review Application is dismissed having no merits.

  
(S.K. Agarwal)  
Member (J).