

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH, JAIPUR.

Date of Order: 4/6/2001

PA 14/2001 (OA 510/99)

1. Union of India through General Manager, Western Railway, Churchgate, Mumbai.
2. Divisional Railway Manager, Western Railway, Ajmer.
3. Divisional Accounts Officer, Western Railway, Ajmer.

Applicants

Versus

Brijesh Kumar Srivastava s/o Shri Bhagwandas, Retired Guard,
Western Railway, Ajmer Division, Ajmer, r/o House No.477, 34,
Pal Beechla, Ajmer.

... Respondent

CORAM:

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

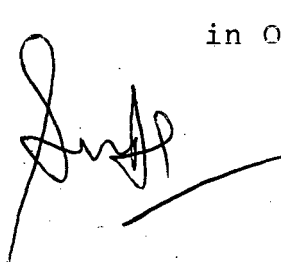
HON'BLE MR.A.F.NAGRATH, ADMINISTRATIVE MEMBER

O R D E R

This Review Application has been filed to recall/review the order of this Tribunal dated 30.3.2001 passed in OA 510/99, Brijesh Kumar Srivastava v. Union of India & Others.

2. Vide Order dated 30.3.2001, this Tribunal has disposed of the OA with the direction to the respondents to pay the applicant interest @ 12% per annum on the delayed pay and allowances and retiral benefits, from 1.5.1998 till the actual payment. The whole exercise must be completed within three months from the date of receipt of a copy of the order.

3. We have perused the averments made in this PA and also perused the order passed by this Tribunal on 30.3.2001 in OA 510/99.



4. The main contention of the learned counsel for the applicants in this FA is that this Tribunal failed to consider Rule 87(4)(B) of Pension Rules of 1993 hence the order passed by this Tribunal is contrary to rules.

5. Section 22(3) of the Administrative Tribunals Act, 1985 confers on Administrative Tribunal discharging the 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 decision.

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

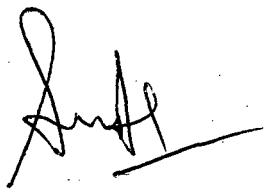
"Order 47 Rule 1: Application for review of judgement

(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 judgement to the court which passed the decree or made the order."



7. 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 courts 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.

8. What the applicants are claiming through this RA is that this Tribunal should reappreciate the facts and material on record. This is beyond the purview of this Tribunal while exercising the powers of the review conferred upon it under the law. It has been held by Hon'ble the Supreme Court in the case of Smt. Meera Bhanja v. Nirmal Kumari, AIR 1995 SC 455, that reappreciating facts/law amounts to overstepping the jurisdiction conferred upon the Courts/Tribunal while reviewing its own decisions. In the present RA also the applicants are trying to claim reappreciation of the facts and material on record which is decidedly beyond the power of review conferred upon the Tribunal and as held by Hon'ble the Supreme Court.

9. It has been observed by the Hon'ble Supreme Court in a recent judgement Ajit Kumar Fath v. State of Orissa & Ors., JT 1999 (8) SC 578, that a review cannot be claimed or

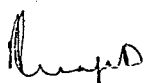
asked merely for a fresh hearing or arguments or correction of an erroneous view taken earlier, that is to say, the power of review can be exercised only for correction of a patent error of law or fact which stares in the face without any elaborate argument being needed for establishing it. It may be pointed out that the expression 'any other sufficient reason' used in Order 47 Rule 1 means a reason sufficiently analogous to those specified in the rule.

10. We have given anxious consideration to the contention raised by the learned counsel for the applicants in the RA and also perused the order dated 30.3.2001 passed in OA 510/99 and the whole case file thoroughly. We have discussed in detail the pros and cons of Rule 87 of Railway (Pension) Rules, 1993 and held that this rule does not help the applicants in any way. Therefore, we do not find any error apparent on the face of the record and in the impugned order dated 30.3.2001. No new facts or evidence has come in the notice of this Tribunal on the basis of which the order passed by this Tribunal can be reviewed.

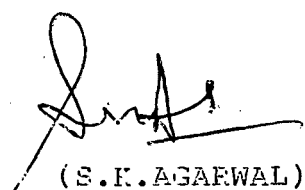
11. In view of the above and the facts and circumstances of this case, we do not find any error apparent on the face of the record to review the impugned order and, therefore, there is no basis to review the above order.

12. We, therefore, dismiss this Review Application having no merits.

By circulation.


(A.P.NAGRATH)

MEMBER (A)


(S.K.AGARWAL)

MEMBER (J)