

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH, JAIPUR

RA 15/2002 with MA 252/2002

DATE OF ORDER: 19/11/2003

1. Union of India through the Chairman, Railway Board, Ministry of Railway, Rail Bhawan, New Delhi.
2. The General Manager, Western Railway, Churchgate, Mumbai.
3. The Dy. Controller of Stores, Western Railway, Ajmer.

.... Applicants

VERSUS

1. R.C. Garg, Chief Typist O/o the Dy. Controller of Stores, Western Railway, Ajmer.
2. Rajendra Sinha, Head Typist O/o the Dy. Controller of Stores, Western Railway, Ajmer.
3. R.P. Shama, Sr. Typist, O/o the Dy. Controller of Stores, Western Railway, Ajmer.

.... Respondents.

Mr. U.D. Sharma, Counsel for the respondents.

CORAM:

Hon'ble Mr. J.R. Kaushik, Member (Judicial)
Hon'ble Mr. A.K. Bhandari, Member (Administrative)

ORDER

PER HON'BLE MR. J.R. KAUSHIK

This Review Application has been filed for seeking review of the order dated 12.4.2002 passed in OA No. 39/2000 wherein the OA was allowed with the following directions:-

"In the light of discussion aforesaid, we partly allow this OA. In respect of the relief for assigning higher pay scale to the category of Senior Typist, we hold this OA as premature. However, the respondents are directed to refund the amount which has already been recovered from the applicants on the ground of being excess payment. Such amount shall be refunded within a period of one month from the date of receipt of a certified copy of this order. For any delay beyond a period of one month, the applicants shall be entitled to receive interest @ 8% per annum. No order as to costs."

2. The learned counsel for the applicants in the Review Application (respondents in OA) has drawn our attention to

Para 7 of the Review Application and has submitted that a judgement of the Hon'ble Rajasthan High Court could not be brought to the notice of this Court since it was published later and came to his knowledge subsequently and had the same been available to this Tribunal and considered, the order would have been different. This has prejudiced the case of the respondents.

3. To appreciate the controversy, the contents of the said Para No. 7 are extracted as under:-

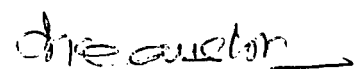
" That after the order in the aforesaid OA had been pronounced on 12.4.2003, a decision of the Hon'ble Rajasthan High Court rendered in Alam Ali vs. State of Rajasthan & Others came to the notice of the counsel for the Review Applicants which was published in April, 2002 issue of the Services Law Reporter (SLR) received by the Counsel on 19.4.2002. The said case had been decided by the Hon'ble High Court as early as on 1.2.2000, but was only published in the April, 2002 issue of the SLR and, as such, did not come to the notice of the Counsel for the Review Applicants and as such, it could not be cited by him before this Hon'ble Tribunal at the time of hearing of the OA."

4. It is axiomatic from the perusal of the aforesaid averments that the judgement of the Rajasthan High Court was not in the knowledge of the learned counsel for the respondents and question of considering by this Tribunal did not arise. In this view of the matter, we are of the opinion that non considering of the judgement which has not brought to the knowledge of the Tribunal does not construe any illegality apparent on the face of the record and cannot be said to be the ground of Review as is very well settled by the Apex Court in Ajit Kumar Rath vs. State of Orissa, 2000(2) 31J SC 108 wherein their Lordships have held that the scope of review is very limited.

5. In this view of the matter, we find no ground for entertaining this Review Application and in the premises, the Review Petition is hereby rejected.

6. Condonation of delay Application also stands disposed of since we have already examined this Review Petition on merits.


(A.K. BHANDARI)
MEMBER (A)


(J.K. KAUSHIK)
MEMBER (J)