

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
JAIPUR BENCH

Review Petition No. 18/1995.
in OA 99/1994.

Date of order 7-4-95

Union of India & others.

.....Petitioners.

Vs.

Shri Moolia

.....Respondent.

O R D E R

(Hon'ble Shri N.K. Verma, Administrative Member)

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This is a Review Petition against the order dated 13.1.95 under which the applicant in the OA No.99/1994 was given the relief of grant of temporary status from 1.1.1961 and a direction was also given for refixation of his pension accordingly, taking his service as substitute as per qualifying service for grant of pension. The applicants in this R.A. were the respondents in that OA. The applicant in that OA had prayed for change in the date of his birth and count the period of service from the date of attaining temporary status i.e. 1961 on the post of substitute towards pensionary benefits and allow all consequential benefits thereof. The applicant claimed that he got temporary status on 30.6.61 on completion of 180 days service. In reply thereto, the respondents denied para 4.4 of the OA and stated that the applicant was granted temporary status w.e.f. 21.12.72.

2. When the matter came up for hearing, the learned counsel for the respondents - Mr. Rafiq was not present and one Shri Abdul Kalam, a brief holder on his behalf appeared. The brief holder did not insist upon the postponement of the case for another date when the learned counsel for the applicant had commenced his

arguments. If the contentions made by the learned counsel for the respondents in that OA and learned counsel for the applicant in this RA are to be believed, Shri Kaushik should have informed the Court about the personal assurances given by him. In any case, it was the ~~bounden~~ duty of the brief holder to have informed the Court about this mutually arranged adjournment of the hearing which had no binding effect on ~~second~~ ^{the court}. When the case came up for hearing, the pleadings were complete. Therefore, the question of allowing minimum opportunity of a few days did not arise and the same was never requested.

N.L.W.

3. So far the facts of the case are concerned, no new facts have been discovered or brought to our notice. There are no errors apparent on the face of the record. Applicant in that case had in the OA claimed his seniority from 1.6.61 and since that was never in dispute he had not made any representations in that regard. It is the respondents' plea that a temporary status was conferred upon him in 1972. No evidence was adduced to support this contention that the applicant was aware about the changed date of grant of temporary status and as per OA he came to know about changed status only after he had retired and he was granted pension taking into account only 21 years of service. He had rendered more than 33 years service which would have entitled him to full pension. The learned counsel for the respondents at no time had communicated if a proper notice of grant of temporary status w.e.f. 1972 was served on the applicant and, if so, any representation in this regard was received by them.

4. In view of the averments, pleadings and

arguments of the learned counsel for the applicant and the written reply from the respondents, this Bench of the Tribunal came to the conclusion as in the order. An order even if it may be an erroneous one, cannot be reviewed on merits in R.A. In view of these, the Review Application hardly merits any consideration and is dismissed.

N.K. Verma

(N.K. VERMA)
ADMINISTRATIVE MEMBER