

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH, JAIPUR.

Date of Order: 15.09.2000

RA 22/95 with MA 120/95 (OA 199/93)

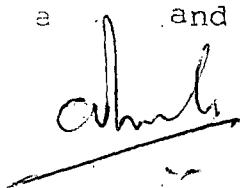
Lalit Mohan Ranga S/o Shri G.D. Ranga aged about 33 years, resident of K-52, Ana Sagar Link Road, Krishanganj, Ajmer, at present employed on the post of Junior Shop Superintendent in 22-Wagon Repaid Shop, C&W Shops Ajmer, Western Railway.

.... Applicant.

versus

1. Union of India through General Manager, Western Railway, Church Gate, Mumbai.
2. Dy. Chief Mechanical Engineer, Carriage & Wagon Shop, Western Railway, Ajmer.
3. Chief Works Manager, Central Work Shop Loco, Ajmer Western Railway.
4. Shri Sashi Kumar at present employed on the post of Junior Shop Superintendent in 22-Wagon, Repair Shop, Carriage & Wagon Shop, Ajmer Western Railway.
5. Shri Kaul Ram at present employed on the post of Junior Shop Superintendent in 22-Wagon Repair Shop, Carriage and Wagon Shop, Ajmer Western Railway.
6. Shri Shyam Babu, at present employed on the post of Junior Shop Superintendent in 22-Wagon Repair Shop, Carriage and Wagon Shop, Ajmer, Western Railway.
7. Shri Nand Kishore at present employed on the post of Junior Shop Superintendent in 22-Wagon Repair Shop, Carriage and Wagon Shop, Ajmer, Western Railway.
8. Shri Shakti Singh at present employed on the post of Junior Shop Superintendent in 22-Wagon Repair Shop, Carriage and Wagon Shop, Ajmer, Western Railway.
9. Shri Chandan Singh at present employed on the post of Junior Shop Superintendent in 22-Wagon Repair Shop, Carriage and Wagon Shop, Ajmer, Western Railway.
10. Shri Pushpkant Mathur, Junior Shop Superintendent, employed in the 22-Wagon Repair Shop, Carriage and Wagon Shop, Ajmer, Western Railway.

.... Respondents.



Mr. Shiv Kumar, Counsel for the applicant.
Mr. S.S. Hasan, Counsel for respondents no. 1 to 3.
Mr. P.P. Mathur, Proxy counsel for
Mr. R.N. Mathur, Counsel for respondents no. 4 to 10.

CO RAM

Hon'ble Mr. Justice B.S. Raikote, Vice-Chairman.
Hon'ble Mr. N.P. Nawani, Administrative Member.

ORDER

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

This Review Application (for short, R.A.) has been filed by the respondent no. 10 in OA no. 199/93 for review of the order of the Tribunal dated 25.11.94 rendered in the said OA. The operative portion of the said order of the Tribunal is extracted hereunder:-

"In the result, we accept this petition in part and direct that the respondent no. 10, Shri Pushkant Mathur, should be deemed to have been promoted with effect from the date of completion of two years on the feeder post. However, the amount paid to him by way of salary of the higher post on account of his performing his duty on the higher post shall not be recovered. He will get benefit of seniority from the date of his completion of two years on the feeder post i.e. from 25.11.93. Thus, the persons appointed subsequently on account of upgradation or otherwise during the intervening period will be senior to Shri Pushkant Mathur."

2. This R.A. has been filed on 28.2.95 against the Tribunal's order dated 25-11-94 i.e. after a lapse of more than three month. Such a delay could have been, by itself, sufficient ground to dismiss the R.A. since the reasons for condonation of delay are not convincing. However, we are proceeding to examine the contentions raised in the R.A., considering the background of the case.

3. We have perused the averments made in this R.A., the reply

filed by the official respondents and the order delivered by this Tribunal dated 25.11.94 in OA no. 199/93.

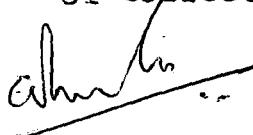
4. The main contention of the review applicant, Pushpkant Mathur (respondent no. 10 in the OA) in this R.A. is that he was promoted in the post of Junior Shop Superintendent (for short, JSS) vide order dated 15.5.93 but a copy of this order was not annexed at the time of reply, although the applicant in the OA, Lalit Mohan Ranga, had challenged the promotion order of 27.2.93. Further, the review-applicant is now in this R.A. trying to seek support ~~at~~ from Railway Board's (for short, R.B.) circular dated 18.3.93 (Annexure RA-2) which, inter-alia, relaxed the qualifying service from 2 years to 1 year. The official respondents, in their reply to this R.A., ~~also~~ have also now mentioned about this circular of the R.B. and have the gumption to state that this important fact had escaped from the notice of the Tribunal while deciding the OA.

5. The Tribunal had rendered its decision dated 25.11.94 in OA no. 199/93 on the basis of pleadings made before it in the said OA. The contentions now being raised, as briefly stated in the preceding paragraph, were not made before the Tribunal when it rendered its decision. It, therefore, follow that there is question of any error apparent on the face of record. What the review applicant in this OA is actually raising now is a new plea, by introducing the promotion order dated 15.5.93 (Annexure RA-1) and the Railway Board's circular dated 18.3.93 (Annexure RA-2). However, we are of the considered opinion that with diligence, the review applicant (respondent no. 10 in the OA) could have obtained the non-confidential and well distributed promotion order of 15.5.93 and the widely circulated R.B.'s circular dated 18.3.93. Not only the review applicant, but even the official respondents also did not annex these two documents nor did they try to place these on record right upto the time of hearing.

6. It is well settled law that review/recall of an order passed by the Tribunal is permissible only if there is a patent error or if an important matter or evidence is discovered which after exercise of due diligence was not within the knowledge of the review-applicant. As mentioned earlier, we have found no error apparent on the face of record in the order rendered by this Tribunal on 25.11.94 and the two documents now annexed with the RA cannot be categorised as discovery of new matter or evidence, which after due diligence would not have been within the knowledge of the review-petitioner as well as the official respondents.

7. The learned counsel for the review-applicant has cited the cases of Gopalbandhu Biswal etc. v. Krishna Chand Mohanty, 1998(3) SLJ 102; Ranjit Singh v. U.O.I., (1988) 7 ATC 670 (CAT); U.O.I. v. Karamchand, (1989) 11 ATC 330 (DLI); Siba Pada Chakrabarty v. U.O.I., 1989(10) ATC 369 (CAL); U.O.I. v. Manoranjan Hore, (1989) 4 ATC 433 (CAL); Nathu Ram V. Secretary, Ministry of Communications; R.N. Goyal v. Central Provident Fund Commissioner, (1989) 4 ATC 721 (DLI) in support of his contention but in view of the specific facts and circumstances of this RA, these cases are of no help to the review applicant.

8. There are, on the other hand, a catena of judgements from the Apex Court laying down the extremely limited role that the Court/Tribunal enjoy in the matter relating to review petitions. It will be suffice to cite one of the recent judgement of the Apex Court in this regard. It has been observed by the Hon'ble Supreme Court in a recent judgement Ajit Kumar Rath vs. State of Orissa & Others, JT 1999 (8) SC 578 that a review cannot be claimed or asked for merely for a fresh hearing or arguments or correction of an erroneous view taken earlier, that is to



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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.

9. In view of the ^{law} laid down by the Apex Court and the facts and circumstances of this case, we find no merit in this R.A. and it is accordingly dismissed.


(N.P. NAWANI)
MEMBER (A)


(B.S. RAIKOTE)
VICE CHAIRMAN