

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
JAIPUR BENCH, JAIPUR

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R.A.NO. 26/96

in
O.A. No. 408/93 199
T.A. No.

DATE OF DECISION 21.6.1996

Bahadur Singh

Petitioner

~~Mr. S.K. Jain~~ S.K. Jain

Advocate for the Petitioner (s)

Versus

Union of India and others

Respondent

Mr.M. Rafiq

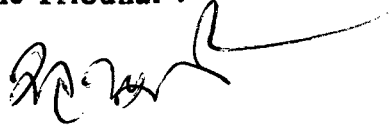
Advocate for the Respondent (s)

CORAM :

The Hon'ble Mr. RATANPRAKASH, MEMBER (JUDICIAL)

The Hon'ble Mr.

1. Whether Reporters of local papers may be allowed to see the Judgement ?
- ✓ 2. To be referred to the Reporter or not ? *Yes*
- ✓ 3. Whether their Lordships wish to see the fair copy of the Judgement ? *Yes*
4. Whether it needs to be circulated to other Benches of the Tribunal ?


(RATAN PRAKASH)
MEMBER (J)

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL JAIPUR

BENCH: JAIPUR.

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R.A. NO. 26/96

Date of order: 21.6.96.

in
O.A. NO. 408/93

Bahadur Singh : Review-petitioner

Vs.

Union of India and another : Respondents

ORDER

RATAN PRAKASH, MEMBER (JUDICIAL)

Shri Bahadur Singh, review petitioner has filed this petition under Section 22(3) of the Administrative Tribunals Act read with Rule 17 of the Central Administrative Tribunal (Procedure) Rules, 1987 aggrieved by the impugned order dated 8.4.1996 disposing his OA No.408/93. The petitioner in his OA has sought compassionate appointment with the respondents railways on account of the death of his father while in service.

2. In this review petition, the petitioner has mainly claimed review of the impugned order on the ground that the facts have not been properly appreciated while disposing the OA. The other ground taken by the review petitioner is that instead of finally disposing of the OA, in absence of the applicant or his counsel either the case should have been passed over to the next date or that it should have been dismissed by

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following the provisions of Order 17 Rule 1 and 2 of the Code of Civil Procedure.

3. I have given anxious thought to the grounds raised by the review petitioner in this petition.

4. To the ground raised by the review petitioner that the case should have been passed over in the absence of the applicant or his counsel or that it should have been disposed of by following the provisions of Order 17 Rule 1 & 2 C.P.C., it is suffice to mention that under the Administrative Tribunals Act, the provisions of the CPC are applicable to a very limited extent as contained under Section 22(3) of the Administrative Tribunals Act, 1985. The situations under which the Tribunal while discharging its functions under the Act is required to follow the powers as are vested in the Civil Court in respect of the following matters only:

- (a) summoning and enforcing the attendance of any person and examining him on oath;
- (b) requiring the discovery and production of documents;
- (c) receiving evidence on affidavits;
- (d) subject to the provisions of Sections 123 and 124 of the Indian Evidence Act, 1872 (1 of 1872), requisitioning any public record or document or copy of such record or document from any office;
- (e) issuing commissions for the examination of witness or, documents;
- (f) reviewing its decisions;
- (g) dismissing a representation for default or deciding it ex parte;

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- (h) setting aside any order of dismissal of any representation for default or any order passed by it ex parte; and
- (i) any other matter which may be prescribed by the Central Government."

5. The procedure to be observed in case where the applicant or the respondent absents on the date of hearing is laid down under Rule 15 & 16 of the Central Administrative Tribunal(Procedure) Rules, 1987. Under Rule 15, sub-clause(1) of the C.A.T. (Procedure) Rules, 1987 the provision is as under:-

"15(1) Where on the date fixed for hearing of the application or on any other date to which such hearing may be adjourned, the applicant does not appear when the application is called for hearing, the Tribunal may, in its discretion, either dismiss the application for default or hear and decide it on merit."

From a perusal of this specific provision, it is abundantly clear that in case the applicant does not appear on the day for hearing; the Tribunal in its discretion ^{may} either dismiss the application for default or hear and decide it on merit. In the instant case also the CA was listed for hearing but on the date of hearing none appeared for the applicant. Shri M. Rafiq counsel for the respondents was present and the CA was heard on merit and disposed of on merit under Rule 15(1) of the C.A.T.(Procedure) Rules, 1987 on the same day. Thus there being a specific provision under the C.A.T.(Procedure) Rules, 1987 to dispose of the CA in the absence of the applicant, the grounds taken by the review petitioner that Order 17 Rule 1 & 2 of the

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C.P.C. applies or it should have been dismissed in default, carry no weight and hence are rejected.

6. Coming now on the merits of the review petition, it is suffice to mention that the power to review its own order by the Tribunal is contained under Rule 22(3)(f) of the Administrative Tribunals Act, 1985 read with Rule 17 of the C.A.T.(Procedure) Rules, 1987 which is further circumscribed by the limits laid down by Section 114 of the CPC read with Order XLVII Rule 1 of the C.P.C. In view of the limits placed under the aforesaid provision, a review of its own order is permissible by a Tribunal/Court only on:

- i) the discovery of new and important matter or evidence which after the exercise of due diligence of the petitioner was not within his knowledge or could not be produced by him at the time when the order in question was made;
- ii) on account of some mistake or error apparent on the face of the record; and
- iii) or for any other sufficient reason."

7. The review petitioner has failed to justify that any of the situations exist for review of the impugned order dated 8.4.1996 whereby the OA No.408/93 filed by the review petitioner was rejected. Moreover it has also been laid down by Hon'ble the Supreme Court in the case of Meera Bhanja Vs. Smt. Nirmala Kumari Choudhary, 1994(4)SCALE 985 that the Tribunal cannot sit in appeal over its own decision nor can re-appreciate the matter. In case an effort is made to re-appreciate the evidence once again, it would

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virtually amount to over-stepping the jurisdiction conferred upon the Tribunal for review of its own order.

8. For all the aforesaid reasons, there is no substance in this review petition filed by the petitioner which is hereby dismissed. By circulation.


(RATAN PRAKASH)
MEMBER (J)