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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH, JAIPUR.

R.A No.34/2000

Date of order: 21/11/2000

1. Union of India through the General Manager, W.Railway, Churchgate, Mumbai.
2. Divisional Railway Manager (Estt) Western Railway, Kota Division, Kota.
3. Divisional Electrical Engineer(TRD), Western Railway, Kota Division, Kota.

...Applicants.

Vs.

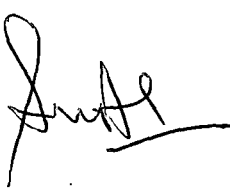
Hakim Singh, S/o Shri Nathi Singh, R/o Qtr.No.326, Shyam Badh Depot, TRD Shyam Gadh, employed as Chokidar.

...Respondent.

Mr.S.S.Hasan - Counsel for applicants/respondents in O.A.

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

This review application has been filed to recall/review the order of this Tribunal dated 20.9.2000 passed in O.A No.355/2000, Hakim Singh Vs. UOI & Ors alongwith M.A No.414/2000 for condonation of delay in filing the Review Application.

2. The M.A for condonation of delay is allowed and the delay is condoned.
 3. Vide order dated 20.9.2000, this Tribunal allowed the O.A partly with the direction to the respondents that the departmental proceedings pending against the applicant be stayed for a period of 6 months only from the date of passing of this order and thereafter the respondents will be at liberty to proceed further with the departmental proceedings on the expiry of the period of 6 months against the applicant, irrespective of whether the criminal case against the applicant is disposed of or not.
 4. We have perused the averments made in this Review application and also perused the order delivered by this Tribunal dated 20.9.2000 in O.A No.355/2000
 5. The main contention of the learned counsel for the applicant in this Review Application is that the enquiry against the applicant in pursuance of the charge sheet was completed and notice of imposition of penalty has been issued on 28.7.2000 thereafter in compliance of the said NIP, the applicant has been compulsorily retired from service vide order dated 1.8.2000 but this fact could not be brought on record at the time of final hearing of the O.A. It is stated that in the facts and circumstances as stated above, there is an error apparent on the face of the record and this order needs to be reviewed.
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6. 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 decisions.

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

"Order 47 Rule 1; Application for review of judgment:

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

8. 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 court 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.

9. In the instant case, by order dated 20.9.2000, this Tribunal has directed the respondents that the departmental proceedings against the applicant be stayed for a period of 6 months from the date of passing of this order and thereafter the respondents will be at liberty to proceed further with departmental proceedings against the applicant irrespective of the fact whether the criminal case against the applicant is disposed of or not. But on the basis of the facts stated by the applicants, it is abundantly clear that the departmental proceedings initiated against the applicant have already been completed and after issuing NIP dated

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28.7.2000 the applicant has already been compulsorily retired vide order dated 1.8.2000.

10. The only relief sought by the applicant in the O.A was to direct the respondents not to continue the departmental proceedings against the applicant till the decision of the criminal case is pending or a period of at least 6 months in the interest of justice. Not only the departmental proceedings had already been completed before passing of the impugned order dated 20.9.2000 but NIP order dated 28.7.2000 was issued after completion of enquiry and in pursuance of this NIP order dated 28.7.2000 the applicant has already been compulsorily retired from service vide order dated 1.8.2000. Therefore, the relief claimed by the applicant in the O.A has become infructuous and the applicant is not entitled to any relief sought for and the impugned order dated 20.9.2000 needs to be reviewed.

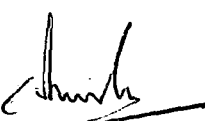
11. Although enquiry had already been completed and the applicant has already been retired compulsorily when we heard the arguments in this O.A on 18.9.2000 but this fact was not brought to the notice of the Tribunal by either parties. Had this fact brought to the notice of this Tribunal at the time of hearing the arguments, the impugned order dated 20.9.2000 could not have been passed in the manner in which it was passed.

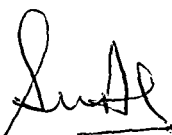
12. We, therefore, accept the Review Application by deleting paras 10 and 11 and disposed of the O.A as having become infructuous as the enquiry has already been completed and the penalty of compulsory retirement has already been imposed.

13. In the result, the Review application is allowed by substituting para 10 as follows:

"We, therefore, dispose of the O.A as having ~~become~~ become infructuous with no order as to costs."

14. A copy of this order may be sent to the applicant of the O.A.


(N.P. Nawani)
Member (A).


(S.K. Agarwal)
Member (J).