

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH, JAIPUR.

R.A.No.29/2002

Date of order: 23.1.2003

In O.A No.190/01

1. Union of India through General Manager, Western Railway, Churchgate, Mumbai.
2. Chief Personnel Officer, Western Rly, Churchgate, Mumbai.
3. Chairman, Rail Pathshalayam & Sr.Divisional Personnel Officer, Division Office, Kota.

...Applicants.

Vs.

Ram Prasad Panth, S/o Sh.Bhagwandas Panth, R/o House No.112, Ram Nagar, Post Lalitpur, Distt.Lalitpur, UP and worked as Head Master, Rly.Primary School (English Medium) Gangapurcity, W.Rly, Kota.

...Respondent.

Mr.S.S.Hasan - Counsel for applicants.

Mr.G.P.Kaushik - Counsel for respondent.

PER HON'BLE Mr.M.L.CHAUHAN, JUDICIAL MEMBER.

The present Review Application has been filed by the applicants-original respondents, for reviewing the order passed by this Tribunal on 9.1.02 in O.A No.190/01, Ram Prasad Panth Vs. Union of India & Ors.

2. Relevant facts which are necessary for the disposal of this application are that the aforesaid O.A was filed by the Original applicant before this Tribunal thereby praying for quashing and to set aside the order dated 30.11.99, whereby the said Ram Prasad was voluntarily retired from the Railway Service w.e.f. 30.11.99. This Tribunal allowed the aforesaid O.A and quashed the order dated 30.11.99 and held that applicant shall be deemed in continuous service for the respondents and he will be entitled to 50% of the pay and



allowances for the period from 1.12.99, till he joins. The main grievance of the review applicants in this application is that upon seeking voluntary retirement after acceptance of voluntary retirement, respondent-original applicant, had received a sum of Rs.4,23,511/- as pensionary benefits which include commutation, PF, GIS, DCRG and leave encashment. Thereafter, he had received regular pension w.e.f. 1.12.99 to 28.2.02. However, this fact regarding receipt of Rs.4,23,511/- and regular pension w.e.f. 1.12.99 to 28.2.02 was concealed by the respondent original applicant, while filing the O.A and even at the time of hearing of the O.A. Thus, according to the review applicants, the original applicant was not entitled to this amount once the order of voluntary retirement has been quashed by this Tribunal and he was asked to refund the aforesaid amount but despite written notices, the original applicant has not deposited the aforesaid amount till date. Thus, the review applicants by way of review application has prayed that this application may kindly be allowed and the order passed by this Tribunal dated 9.1.02 may kindly be reviewed and may kindly be modified to this extent that if the respondent original applicant deposited the amount of Rs.3,74,213/- alongwith regular pension received by him for the period w.e.f. 1.12.99 to 28.2.02 and onwards till drawn by Bank with the Railways, he may be taken in service and posting order be issued accordingly.

3. Alongwith Review Application, the applicants-original respondents have also filed an M.A for condonation of delay which was registered as MA 383/02. Notices of the review application as well as application for condonation of delay was given to the original applicants and he has filed the reply. The main contention of the respondent original applicant, is

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that he has not concealed any fact from the Hon'ble Tribunal. So far as acceptance of retiral benefits and pension are concerned, it has been specifically contended by the respondent original applicant, in para 6 that all the settlement dues were paid to the applicant and the applicant has also accepted the same and this fact has been considered by the Hon'ble Tribunal while deciding the case on 9.1.02. It has been further submitted that the review applicants-original respondents, have wrongly stated that they paid Rs.423511/- to the respondent-original applicant but in fact he had received a sum of Rs.374213/- and the said amount can be adjusted only in the light of the circular issued by the Govt from time to time which has been reproduced by the original applicant in para 8 in his reply affidavit. It has been further submitted that the Review Application has been filed after a lapse of eight months whereas the period prescribed for reviewing the order is thirty days. No explanation whatsoever has been given in the Review Application and no reason exists for modification of the order dated 9.1.02 because the respondents can proceed as per rule and law, governing the service condition of the original applicant.

4. I have heard the learned counsel for the parties and have gone through the material placed on record.

5. Sec.22(3) of the Administrative Tribunals Act, 1985 confers on Administrative Tribunals discharging its 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. Sec.22(3)(f) is as follows:

"Sec.22(3)(f):

A Tribunal shall have, for the purpose of discharging its

Yes

functions under this Act, the same powers as are vested in a civil court under the Code of Civil Procedure, 1908 (5 of 1908), while trying a suit, in respect of the following matters, namely,

- (a)
- (f) reviewing its decisions;
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6. A Civil Court's power to review its own decisions under the Code of Civil Procedure is contained in Order 47 Rule 1 which provides as under:

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."


7. Thus, the power of review which is granted to an Administrative Tribunal is similar to power given to a Civil Court under Order 47 Rule 1 of the Code of Civil Procedure. It is well settled that review proceedings are strictly confined

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to the ambit and scope of Order 47 Rule 1 of CPC and the order can be reviewed only ^{on} the limited grounds as mentioned in Order 47 Rule 1 of CPC, namely (i) discovery of new material or evidence which after the exercise of due diligence was not in the knowledge of the applicant or could not be produced by him at the time when the order was passed, (ii) on account of mistake or error apparent on the face of record or (iii) for any other sufficient reasons. In the present case, the review is sought on the ground that the original applicant had received retiral benefits pursuant to his voluntary retirement and when the order of voluntary retirement has been quashed and set aside by this Tribunal and the original applicant has been directed to be reinstated with 50% back wages, in that event the Tribunal ought to have given direction to the original applicant/respondent to deposit the retiral benefits, which he had received alongwith pension till the date of his reinstatement. The aforesaid ground taken by the review applicants cannot be strictly said to be within the ambit and scope of Order 47 Rule 1 of CPC. The Review application in fact amount to re-hearing the ~~same~~ matter afresh which has been finally disposed of and the review applicants want this Tribunal to issue modified directions by affording review applicants a fresh chance of re-hearing the matter again. This with great respect cannot be allowed to be permitted in these proceeding keeping in view the ambit and scope of Order 47 Rule 1 of CPC and limited grounds available for reviewing the order as mentioned above. There also appears to be a considerable force in the submissions made by the learned counsel for the respondent-original applicant that no reason exists for the modification of the order dated 9.1.02 because it is always permissible for the authorities to recover the amount paid to

its employee(s) and not admissible in the manner known to law and order cannot be reviewed on this score.

8. For the reasons stated above, there is no merit in the review application and the present Review Application alongwith Misc.Application for condonation of delay are, therefore, dismissed with no order as to costs.


(M.L. Chauhan)

Member(J).