

Central Administrative Tribunal
Principal Bench: New Delhi

RA No.97/2014
OA No.3760/2009
MA No.1406/2014

New Delhi this the 1st December, 2015

Hon'ble Shri Sudhir Kumar, Member (A)
Hon'ble Shri Raj Vir Sharma, Member (J)

Union of India through

1. The General Manager,
South Western Railway,
Hubli Karnataka.
2. The Divisional Railway Manager,
Mysore Division, South Western Railway,
Mysore, Karnataka.
3. The Chairman,
Railway Recruitment Board,
18, Miller Road, Bangalore, Karnataka. ...Review Applicants.

(By Advocate: Shri V.S.R.Krishna)

Versus

Shri Prahalad Meena
S/o Shri Ramesh Meena
R/o Vill. & PO Pilida, Tehsil Gangapur,
Distt. Sawai Madhopur, Rajasthan. ...Respondent.

(Present: None)

ORDER (ORAL)

Per Sudhir Kumar, Member (A):

This Review Application has been filed by the respondents in OA No.3760/2009. Though notices in this Review Application had been issued on 12.05.2014 to the applicant in the OA, none had appeared for

the applicant of the OA on 14.07.2014, 05.09.2014, 29.10.2014, 13.01.2015, 11.03.2015, 06.05.2015 and 19.08.2015, and again on 06.10.2015. A fresh notice was ordered to be sent to the applicant by the Registry through Speed Post at the address given by the applicant before the Principal Bench of this Tribunal in OA No.3760/2009, and before the Jaipur Bench of this Tribunal in OA No.524/2009, but the applicant has not appeared till today.

2. Learned counsel for the Review Applicants submits that the applicant of the OA had approached before the Delhi High Court in WP(C) No.2028/2011 in **Union of India and Another vs. Prahalad Meena**, which Writ Petition came to be clubbed with many other Writ Petitions, and has since been decided through order dated 21.10.2013 passed by the Delhi High Court, stating as follows:

"O R D E R
21.10.2013
CM No. 12665/2013 in W.P. (c) No.2028/2011
CM No. 12668/2013 in W.P. (c) No.2029/2011
CM No. 12657/2013 in W.P. (c) No.2031/2011

For the reasons stated in the applications the same are allowed.

CM No. 12665/2013 in W.P. (c) No.2028/2011
CM No. 12667/2013 in W.P. (c) No.2029/2011
CM No. 12656/2013 in W.P. (c) No.2031/2011
Allowed.

Order dated April 17, 2013 dismissing the writ petitions in default and for non prosecution is recalled.

W.P. (c) Nos.2028/2011, 2029/2011 and 2031/2011

1. Learned counsel for the petitioners states that the issue of territorial jurisdiction was argued before the Bench of the Central Administrative Tribunal at Delhi and for which it was argued that the jurisdiction lay with the Central

Administrative Tribunal at Bangalore alone. It is further urged that the claimants before the Tribunal had approached the Jaipur Bench of the Tribunal which had so opined.

2. However, counsel concedes that said aspect does not find a mention in the impugned order passed by the Tribunal.

3. We do not know whether the issue of jurisdiction which was pleaded in the counter reply was ultimately argued before the Tribunal.

4. It is trite that when an issue arises whether a particular point was or was not urged before the Tribunal, the attention has to be drawn at the first instance of the Tribunal to said fact.

5. Accordingly, we permit the petitioners to withdraw the writ petitions with right of the petitioners reserved to file an appropriate application before the Tribunal pointing out to the Tribunal that the issue of jurisdiction (which was raised in the preliminary objection to the counter reply and was argued) has escaped the attention of the Tribunal while deciding the Original Application(s) filed by the respondents.

6. Granting liberty the writ petitions are dismissed as not pressed.

7. No costs.

PRADEEP NANDRAJOG, J.
V. KAMESWAR RAO, J."

3. He further points out that in one of the Writ Petitions, which was decided by the Delhi High Court on that date, i.e. on 21.10.2013, in WP(C) No.2031/2011 in **Union of India and Another vs. Rajendra Kumar Meena**, an R.A. No.86/2014 in OA No.3762/2009 had been filed

in **Union of India and Others vs. Rajendra Kumar Meena**, which RA stands allowed by a Coordinate Bench on 14.10.2015 stating as follows:

"6. As a necessary consequence of the above discussion, the instant Review Application is allowed. Order dated 16.11.2010 passed in OA-3762/2009 is reviewed and is accordingly set aside and it is held that the Principal Bench has no territorial jurisdiction to entertain and decide the OA filed by the review respondent. Accordingly, paper book of the OA is ordered to be returned to the original applicant for presenting before competent authority, by keeping copy of the paper book on record."

4. In view of the order passed by the Delhi High Court, and for parity of reasons given in the order passed by a Coordinate Bench in R.A. No.86/2014 decided on 14.10.2015, we proceed to decide the present R.A. case *ex parte*. Since the matter relates to the point of jurisdiction itself, and it has been held by a Coordinate Bench, as well as by the Delhi High Court, that this Bench has no territorial jurisdiction to entertain and decide the O.A. filed by the Review Respondent/Applicant of the O.A., the present R.A. is allowed, and the order dated 04.01.2011 passed in OA No.3760/2009 is reviewed, and same is set aside. Accordingly, as ordered in R.A. No.86/2014 also, the Paper Book of the OA is ordered to be returned to the Original Applicant for presenting before the Competent Authority, by keeping a copy of the Paper Book on record.

(Raj Vir Sharma)
Member (J)

(Sudhir Kumar)
Member (A)

/kdr/

