

**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH: NEW DELHI**

**MA No.388/2018 In
C.P. No.311/2017 In
O.A No.723/2008**

**Reserved On:30.01.2018
Pronounced on:02.02.2018**

**Hon'ble Mr. V. Ajay Kumar, Member (J)
Hon'ble Ms. Nita Chowdhury, Member (A)**

Sarwar Ali, Age 55 years,
S/o late Shri Ishtiyaq Ali,
R/o Flat No.1, Railway Colony,
Agra, U.P. ...Applicant

(By Advocate: Mrs. Meenu Mainee)

Versus

1. Shri R.K. Verma,
Secretary,
Ministry of Railways,
Rail Bhawan, New Delhi.
2. Shri D.K. Singh,
Chief Operating Manager,
Headquarters Office, North Central Railway,
Allahabad.
3. Shri Arun Saxena,
General Manager (P),
Headquarters Office,
North Central Railway
Allahabad.Respondents

(By Advocate: Shri Satpal Singh)

ORDER

By Mr. V. Ajay Kumar, Member (J)

MA 388/2018 in CP No.311/2017 in OA No.723/2008

The applicant in the instant MA originally filed OA No.723/2008 which was allowed by this Tribunal by its order dated

05.12.2008. The Writ Petition (C) No.10011/2009, filed by the respondents against the said order, was disposed of by the Hon'ble High Court of Delhi by order dated 18.07.2011. SLP No.25753/2012 filed by the respondents was also dismissed on 06.12.2013 by the Hon'ble Apex Court.

2. The applicant filed C.P. No.207/2009 alleging violation of the orders of this Tribunal in OA No.723/2008 which was dismissed when the Writ Petition was pending and the stay was granted with liberty to the applicant to avail his remedies once the stay is vacated. The applicant filed MA No.588/2014 seeking revival of the said CP No.207/2009 and the said MA was dismissed on 05.09.2014 as the applicant failed to comply with the directions of the court. Though liberty was granted in the said MA for filing a fresh MA, the applicant without pursuing the same, filed the instant second CP No.311/2017 on 31.03.2017, i.e. after more than 3 years of the dismissal of the SLP filed by the respondents.

3. In the aforesaid circumstances, the Registry raised various objections, such as, limitation, second C.P. etc. with regard to the CP No.311/2017. However, at the instance of the learned counsel for the applicant to list the CP along with the objections, the same is listed as it is before the court. On 27.07.2017 since the Tribunal not satisfied with the submissions made by the applicant with regard to the objections raised by the Registry, directed to list the

CP after removal of objections. When the applicant neither removed the objections nor pursued the matter properly, it was listed as such before the court on 17.11.2017.

4. Finally, this Tribunal dismissed the C.P. No.311/2017 by order dated 17.11.2017 for default and non-prosecution and the said order reads as under:-

“Even on revised call, there is no representation on behalf of applicant.

2. The following orders were passed by this Tribunal on various dates, on which the CP came up for hearing :-

“12.05.2017

At the request of the applicant’s counsel, list on 14.07.2017.

14.07.2017

None for the applicant.

List on 19.07.2017.

19.07.2017

None for the applicant. List on 27.07.2017.

27.07.2017

List after removal of objections.

11.09.2017.

At the request of proxy counsel for the applicant, list the matter on 04.10.2017.

04.10.2017

At the request of applicant’s counsel to remove office objections and also to file a copy of judgment in O.A. No.624/2014, as a last chance, list on 17.11.2017.”

3. Since the applicant is not showing interest to pursue the CP, the same is dismissed in default and for non prosecution”.

5. Seeking restoration of CP No.311/2017, the instant MA is filed.

6. Heard Mrs. Meenu Mainee, the learned counsel for the applicant and Shri Satpal Singh, learned counsel for the respondents and perused the pleadings on record.

7. In the circumstances and in the interest of justice and to give an opportunity to the applicant, the MA is allowed and the C.P. No.311/2017 in OA No.723/2008 is restored to its original file, however, subject to payment of cost of Rs.10,000/- to the Delhi Legal Services Authority within 3 weeks. On payment of the said cost, list the CP on 05.03.2018. The applicant shall also remove all the objections raised by the Registry by the said date.

(NITA CHOWDHURY)
MEMBER (A)

(V. AJAY KUMAR)
MEMBER (J)

RKS