

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

M.A. No.4911 of 2018
IN
O.A. No.4161 of 2014

Orders reserved on 08.02.2019

Orders pronounced on : 15.02.2019

Hon'ble Ms. Nita Chowdhury, Member (A)

S.K. SharmaApplicant
(By Advocate : Shri Yogesh Sharma)

VERSUS
Rail Vikas Nigam Ltd. & othersRespondents
(By Advocate : Shri P. Roychaudhuri)

O R D E R

The applicants (respondents in original *lis*) in MA have filed Mics. Application No.4911 of 2018 for recalling of *ex parte* Order dated 28.9.2018.

2. In support of this MA, contention of the learned counsel for the respondents is that on 6.9.2018, this case was adjourned to 26.9.2018 and thereafter, this case was notified and was directed to be listed later on. So no specific date was given in this matter and on 27.9.2018, the respondents in their own interest sent one of their representatives to the Registry of this Tribunal morning to find out as to how a case can be adjourned without a specific date and it was ascertained by the respondents from the Registry that the

Registry shall fix a fresh date of hearing and the respondents informed the same to their counsel. However, on 28.9.2019, the case suddenly figured in the cause list of 28.9.2018, which was noticed by the clerk of the respondent's counsel and at that time, the counsel for the respondents was held up in another forum and sent his junior to the Tribunal to request for pass over in the matter but by the time the junior reached the Tribunal, the matter was already heard and disposed off.

3. Counsel for the respondents submitted that in the *ex parte* Order dated 28.9.2018 certain vital facts have been ignored as the counsel for the respondents was not present at that time to assist this Tribunal.

3. Heard learned counsel for the parties and have perused the material placed on record.

4. From the perusal of the Order sought to be recalled through this MA, it is quite clear that the said Order has been passed by this Tribunal on the basis of merits of the case and as such non-appearance of the counsel for the respondents on that day, cannot be said to be prejudicial to the interest of the respondents. Admittedly, the said Order is based on merits of the case and this Tribunal has now become *functus officio*. Even if this case was notified on 26.9.2018 for listing it. It is an admitted position that this matter was listed in

regular list on 28.9.2018 and therefore, it is the duty of the counsel to be vigilant in such circumstances.

5. In view of the above, this Court does not find any satisfactory reason to allow this MA. Accordingly, the present MA is dismissed. There shall be no order as to costs.

**(Nita Chowdhury)
Member (A)**

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