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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

R.A.NO.121 of 2005
IN
O.A. NO.1023 of 2003

New Delhi, this the 13th day of March, 2006

HON'BLE SHRI MUKESH KUMAR GUPTA, MEMBER (J)

Shri H.C. Bhandari
Retired Sr. Section Officer (Accounts)
Northern Railway,
Baroda House,
New Delhi.

....Applicant.

(By Advocate : Ms.Meenu Mainee)

VERSUS

Union of India : Through

1. Director General Health Services,
Ministry of Railways,
Rail Bhawan, New Delhi.
2. Chief Medical Director,
Northern Railway,
Baroda House,
New Delhi.
3. Medical Director,
Northern Railway,
Central Hospital,
Paharganj,
New Delhi.

.....Respondents.

(By Advocate : Shri T.C. Gupta)

ORDER (ORAL)

By the present Review Application, review is sought of an order dated 20.7.2004 whereby OA 1023/2003 was partly allowed with a direction to the respondents: "to consider the request of the applicant for reimbursement of medical expenses as sought by him at the rates of the AIIMS, as directed by the Hon'ble Apex Court and the Tribunal in some other cases as cited and mentioned above. The respondents are further directed to complete the exercise in the matter within a period of three months from the date of receipt of a copy of this Order".

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2. The applicant has also filed MA 1060/2005 seeking condonation of delay in approaching this Tribunal. It is an admitted fact that the present RA was filed on 9.5.2005 though the order sought to be recall and review is dated 20.7.2004, copy of which had been received by him on 22.11.2004. The justification for delay in approaching this Tribunal is that while he was in the process of consulting his counsel, but he had to suddenly left for Jaipur where his younger brother expired and he being the eldest family member had to settle the affairs of his deceased younger brother.

3. On merits, Smt. Meenu Mainee, learned counsel contended that order dated 20.7.2004, passed in OA, suffers from an error apparent on the face of record inasmuch as judgment dated 29.1.2003 relied upon by the applicant in OA No.978/2002 in ***Shri S.R. Jha vs. Union of India and others***, reported as 2003 (2) ATJ CAT 168, has not been rightly appreciated by the Bench. It is further contended that the observations recorded by the Bench in paragraph 6 thereof, is not inconsonance with the facts of ***S.R. Jha*** case (supra) namely, that was also the case of non-referral as noticed in paragraph 9 of the said judgement. It is, therefore, contended that there is an error apparent on the face of record, which needs to be corrected.

4. It is further contended that Railway Board's Scheme dated 23.11.2000 on the said subject has not been discussed vide order dated 20.7.2004.

5. Shri T.C. Gupta, learned counsel for respondents opposed the grant of any relief i.e. condonation as well as on review. It was contended that Full Bench judgment of Hon'ble Andhra Pradesh High Court in ***G. Narasimha Rao vs. Regional Joint Director of School Education, Warangal and others***, reported as 2005(4) SLR 720, had clearly ruled that Tribunal has no jurisdiction to condone the delay beyond 30 days as prescribed under the provisions of Administrative Tribunals Act, 1985 and rules framed thereunder. On merits, it was contended that there is no error

apparent on the face of record in the order dated 20.7.2004. Reliance was placed on an order of this Tribunal dated 1.2.2006 passed in RA 252/2005 and MA 2355/2005 in OA 2484/2004 in *S. Kasimayan vs. Union of India and others* wherein by placing reliance on the judgment of Apex Court in *Union of India vs Tarit Ranjan Das*, 2004 SCC (L&S) 160, it was held that scope for review is rather limited and it was not permissible for the forum hearing the review application to act as an appellate authority in respect of the original order and pass a a fresh order on rehearing of the matter to facilitate a change of opinion on merits. It is contended that following the aforesaid law laid down by the Apex Court in such situation, the present RA is liable to be rejected out rightly.

6. I have carefully perused the orders dated 20.7.2004 as well as documents placed in this RA. I may notice at the outset that para 6 of order and judgement dated 20.7.2004 specifically referred to judgements in the cases of *Surjit Singh vs. State of Punjab and Others*, (1996) 2 SCC 336, as well as *S.R. Jha* (supra) and observed as under:-

“Incidentally, the present case is different to the extent that the applicant received treatment at the Escorts Heart Institute & Research Centre without any reference from the competent authority as alleged by the respondents.”

(emphasis supplied)

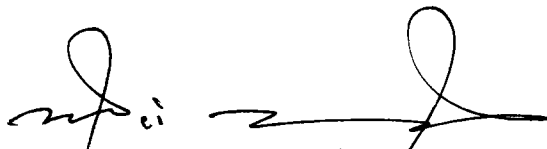
7. Besides the above, other judgments of Hon'ble Supreme Court in *State of Punjab and Ors. vs. Mohan Lal Jindal*, 2002 SCC (L&S) 189, *Govt. of Punjab & Ors. vs. Surjit Singh* (1999) 9 SCC 219 and Hon'ble Delhi High Court judgment in *M.L. Kamra vs. Lt. Governor and Ors.*, 2003 AISLJ (Vol.III) 304, had been dealt with and discussed vide paragraph 8.

8. On perusal of the said judgment dated 20.7.2004, I am of the considered opinion that there is no error apparent on the face of record. The other ground that Railway's Scheme dated 23.11.2000 had not been

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discussed in detail, cannot be a ground to review and recall the said order, particularly, when the said judgment takes into consideration the judgements referred as well as the factum of the respondents policy on the subject of medical reimbursement. The scope and power under Order 47 Rule 1 of CPC is very limited. One cannot reargue the matter. One cannot take a different view. If an error is to be detected or located after long drawn hearing etc., it cannot be said to be an error apparent on the face of record.

9. Following the aforesaid law, I am of the considered view that no such error has been pointed out in the present R.A. Accordingly, RA is liable to be rejected. Ordered accordingly.



(MUKESH KUMAR GUPTA)
MEMBER (J)

/ravi/