

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

RA 129/2005

In

OA 2967/2003

New Delhi, this the 6th day of September, 2005

HON'BLE MR. MUKESH KUMAR GUPTA, MEMBER (J)

1. Shri Jeeraj,
S/o Shri Puran,
Cabinman,
Office of Station Superintendent,
Northern Railway,
Ghaziabad
2. Shri Chattar Pal,
S/o Shri Jaagram,
Pointsman, Office of Station Superintendent,
Northern Railway,
Ghaziabad.
3. Shri Amar Singh,
S/o Shri Jodh Singh,
Cabinman, Office of Station Superintendent,
Northern Railway,
Ghaziabad.
4. Shri Om Prakash,
S/o Shri Siya Ram,
Pointsman, Office of Station Superintendent
Northern Railway,
Ghaziabad
5. Shri Surjit Singh,
S/o Shri Yad Ram,
Cabinman, Office of Station Superintendent,
Northern Railway,
Ghaziabad.

.....Applicants

(By Advocate Shri P.S. Mehendru)

VERSUS


1. Union of India
through
The General Manager,
Northern Railway,
Baroda House,
New Delhi
2. The Divisional Railway Manager,
Northern Railway,
State Entry Road,
New Delhi.

.....Respondents

(By Advocate Shri Sat Pal Singh)

O R D E R (ORAL)


By the present RA applicants/ petitioners, five in number, seek recall/
review of an order dated 12.10.2004 dismissing OA No.2967/2003 stating that the



Tribunal failed to consider the law laid down by the Hon'ble Supreme Court in **M.R. Gupta vs. UOI**, wherein it has been held that the cause of action for the purpose of pay fixation is of continuous nature. It is further contended that the applicants were not in possession of Northern Railway communication No.78-W/O/CL/Payment of Arrears dated 11.06.1993 (Annexure RA-1) on the subject of "Grant of authorized pay scale to casual workers on completion of four months service". It is, therefore, contended that this tantamounts to mistake apparent on the face of record.

2. I have heard learned counsel for the parties and have perused the order dated 12.10.2004 in minutely, besides the relief clause as sought in the OA. Under the relief clause particularly para 8 (ii) and 8 (iii), the applicants sought directions to respondents to re-fix their pay with reference to the pay which they should have drawn in regular scales of pay on their attaining temporary status equivalent to the pay drawn by their regular counterparts in similar posts with consequential benefits. The Tribunal vide the aforesaid order dated 12.10.2004 has rightly or wrongly come to the conclusion that: "It is indisputable fact that cause of action in the instant case had arisen during the years 1975-77 i.e. almost 27 years back. The applicants did not raise this issue during all these years and according to the respondents, they did not even give any representation to the respondents for redressal of their grievances".

Section 21 (2) of the Administrative Tribunals Act, 1985 not only provides the limitation but even confers jurisdiction on the Tribunal. It in specific provides that the Tribunal cannot entertain and adjudicate the issue in which the cause of action had arisen three years prior to the constitution of the Tribunal i.e. a cause of action which arises prior to 1.11.1982 is beyond the jurisdiction and authority of this Tribunal. Moreover, the Hon'ble Supreme Court in **Meera Bhanja vs. Nirmala Kumari Choudhury [(1995) 1 SCC 170]** clearly held that scope of review is very limited in nature. Unless an error, apparent on the face of record, which requires no detailed arguments, is pointed out, it cannot constitute error apparent



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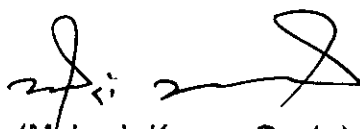
on the face of record, to attract the provisions of order XLVII (1) read with Rules 22

(3) (f) of Administrative Tribunals Act 1985. The relevant excerpts read as under:-

"But, it may not be exercised on the ground that the decision was erroneous on merits. That would be the province of a court of appeal. A power of review is not to be confused with appellate power which may enable an appellate court to correct all manner of errors committed by the subordinate court.

.....An error which has to be established by a long-drawn process of reasoning on points where there may conceivably be two opinions can hardly be said to be an error apparent on the face of the record. Where an alleged error is far from self-evident and if it can be established, it has to be established, by lengthy and complicated arguments, such an error cannot be cured by a writ of certiorari".

Accordingly, I find that the applicants in the present RA wish to re-argue the entire matter and even contend that the findings recorded on merit, requires re-examination, which is not within the purview of order XLVII (!) of Code of Civil Procedure, 1908. Accordingly, I find no error on the face of record in order dated 12.10.2004. Therefore, this RA has no merit and the same is accordingly is rejected. No costs.


(Mukesh Kumar Gupta)
Member (J)

/gkk/