

BEFORE THE RAILWAY CLAIMS TRIBUNAL

ERNAKULAM

REV/ERS/01/2023

Dated 12/02/2024

Ashokan & Others _____ Applicants

Union of India _____ Respondent

Application for Review of Order dated 01/06/2023 passed by this tribunal

Dictated by Sh. Sanjiv Dutt Sharma. Judicial Member.

ORDER

The present order will dispose of a review application moved by the applicants against the orders of this tribunal dated 01/06/2023, in which this tribunal had dismissed the application seeking condonation of delay of more than 1069 days in filing the claim application. The application of the claimants was dismissed by this tribunal on the ground that there were no acceptable reasons for condoning a long delay of 1069 days were given in the application. This tribunal relied upon the judgement of Hon'ble Madras High Court in case no CMP 3787/2019 and also found that there were no cogent reasons given in the application and the delay of 1069 days was also not explained properly.

The applicants instead of preferring an appeal before the Hon'ble High court chose this platform again and moved the present review application by procuring some certificates after the pronouncement of orders dated 01/06/2023. The review application is in the shape of an affidavit.

The application was opposed by the Railway advocate. It is averred in the reply that the Railway do not maintain the records of such type of alleged incidents beyond the period of 3 years and further the application was already dismissed

by this tribunal and the present application is meaningless and not in consonance with law.

I have perused the application seeking review of my order dated 01/06/2023, minutely. To my mind, the scope of review is very limited in law. It can only be allowed in the following circumstances,

- 1) Where there is discovery of new and important matter of evidence, which after the exercise of due diligence was not within the knowledge of the applicants or could not be produced by the applicant at the time when the application was moved.**
- 2) If there is some mistake or error apparent on the face of record**
- 3) For any other sufficient reason**

The most important factor which attracts the review of the order is that the fact which was not within the knowledge of the applicant or could not be produced by them at the time, when the earlier application was moved. I feel that this tribunal has no power to grant a review without calling for strict proof of such allegations.

The use of word discovery means that the applicant must have been ignorant of the existence of the matter or evidence and further there should be a mistake or error apparent on the face of the record. I feel that if the above mentioned points are brought in the review application and the tribunal is satisfied, only then the review application can be allowed.

To my mind, the review of any order cannot allowed if –

- (1) Where the review is asked for to enable the applicant to raise points which he could and ought to have raised at the former hearing.
- (2) Where the review is asked for on the ground that if another opportunity were given to the applicant to establish his case he could prove the order of the Court to be wrong.

(3) Where the review is asked for on the ground that the case has been mismanaged by the party's counsel.

(4) Where review of an ex parte decree or an order of dismissal for default is sought for on the ground that the case ought not to have been decided ex parte or dismissed for default.

(5) Where the Court has proceeded on a wrong exposition of the law or has wrongly decided on a question of law.

It is pertinent to mention here that there is no satisfactory evidence again attached with the review application. Moreover, the applicants have nowhere challenged the order of this tribunal by terming the same as erroneous on merits.

It appears that the review is asked by the applicants on the ground that their case has been mismanaged by their earlier counsel.

It is also not the case of the applicants that any particular evidence was not within their knowledge or could not be produced by them.

In view of my above discussion I do not find any merit in the present application, the same is accordingly dismissed. However there is no order as to cost. File be consigned to record in accordance with the consignment rules.

(Sanjiv Dutt Sharma)
Judicial Member