

Satyaveer Singh Vs. Union of India and Others

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Court : Armed forces Tribunal AFT Principal Bench New Delhi

Decided On : May-30-2012

Judge : Manak Mohta, Judicial Member & Lt. Gen. S.S. Dhillon, Administrative Member

Appeal No. : R.A. NO. 16 OF 2012 IN T.A NO.515 of 2009, W.P.(C) No. 4640 of 1999

Appellant : Satyaveer Singh

Respondent : Union of India and Others

Judgement :

1. This review application has been moved by the applicant on 10th April 2012, against the judgment passed by this Tribunal on 21st July 2010, under Rule 18 of the Armed Forces Tribunal Rules, 2008. He has also concurrently moved miscellaneous application under Section 5 of the Limitation Act, 1965 read along with Section 22 of the Armed Forces Tribunal Act, 2007 for condoning of delay of near about 20 months in filing the review.

2. The main issues agitated by learned counsel for the applicant were that the summary court martial finished in a brief span of 10 R.A. No.16/2012 in T.A. No. 515 of 2009 Satyaveer Singh Vs. UOI and Ors. minutes which was inadequate to even complete the bare formalities necessary in completion of the SCM. It was argued that the Honble Supreme Court had time and again commented on this

issue that due application of mind is necessary at all levels. It was argued that the same issue was raised before the Honble Tribunal and that has not been given due weightage. It was next argued that in the judgment dated 21st July 2010, the Tribunal had observed that there were adequate medical facilities available at Hissar, which was not a correct statement of fact since Military Hospital Hissar came into existence only in 2010, whereas the treatment of the Petitioners mother was required in 1994. The third and final point argued by the learned counsel for the applicant was that there had been non-compliance of Army Rule 115(2), in that a chit on which the certificate was typed had been attached to the proceedings and the signatures of the CO and the Petitioner were obtained on the chit and not on the actual proceedings, of the SCM, but the Honble Tribunal has not properly considered this issue and adverse findings have been given against the applicant. These are the mistakes apparent on record and for that review is necessary. He also made submission in support of his application for condoning the delay in filing review application.

3. Learned counsel for the Respondents argued that while the endorsement of time taken by the SCM to complete its proceedings may have been entered as 10 minutes, it was for the applicant to show any illegality, inadequacy or incompleteness in the proceedings. In the R.A. No.16/2012 in T.A. No. 515 of 2009 Satyaveer Singh Vs. UOI and Ors. present case the SCM proceedings have been perused and there is no illegality or inconsistency in the proceedings which could be attributed to shortage of time. The proceedings have been completed by the Presiding Officer in accordance with law and there has been no allegation of malafide or bias. In any case the applicant has not shown how he has been prejudiced. Learned counsel for the Respondents further argued that even in 1994 when the applicants mother required medical treatment, may be the present Military Hospital at Hissar had not been constructed, but more than adequate, appropriate and modern facilities existed at Hissar for treatment of Armed Forces personnel. Also the applicant, would have had to pay a very heavy charges for whatever facilities he availed in town, whereas such facilities, would have been available free of cost to him with the Army medical authorities at Hissar. Learned counsel for the Respondents next argued that the SCM Form does not contain adequate space for complete typing of the certificate required under Army Rule

115(2) and this certificate is usually by practice typed on a separate piece of paper and attached to the proceedings. In any case the signatures of the Petitioner and the CO appear on the compliance certificate, which has been attached to the proceedings, and the Petitioner does not doubt the authenticity of his signatures. It was contended that all these issues were considered by the Honble Tribunal and now by way of review application they cannot be re-agitated. There is no mistake apparent on record in the judgment. Application be rejected. R.A. No.16/2012 in T.A. No. 515 of 2009 Satyaveer Singh Vs. UOI and Ors.

4. With regard to the application for condonation of delay the learned counsel for Respondents submitted that the applicant has primarily stated that his counsel only informed him of the order of 21st July 2010 on 12th March 2012. Learned counsel for the Respondents pointed out that earlier the case had been dismissed in default for want of prosecution on 12th January 2010 and thereafter had been restored on 18th February 2010 by a miscellaneous application moved by the applicant. Therefore, the applicant was aware that his case was under active consideration by the Tribunal on 18th February 2010. In a short period thereafter the case was heard and decided on 21st July 2010. Accordingly it was for the Petitioner to be more vigilant about his rights.

5. In light of the above aspects though the application for review has been filed belatedly we have considered the points submitted by the applicant for reviewing the judgment passed on 21st July 2010, but all these contentions are related to facts which the Honble Tribunal have already discussed in the judgment and no new point has been raised. The scope of review is limited and re-hearing or re-thinking is not permissible under law. Our conclusion finds support from the judgment given in case of **Kerala State Electricity Board v. Hitech Electrothermics JT 2005 (7) SC 485** by the Honble Apex Court. There is no mistake apparent on the face of record and we hold that the review is not maintainable. We also considered the contentions raised with regard to condonation of delay in filing review application but we do not find any reasonable justification in the grounds given by R.A. No.16/2012 in T.A. No. 515 of 2009 Satyaveer Singh Vs. UOI and Ors. the applicant to condone the inordinate delay and accordingly we dismiss the application for condonation in delay in moving the

review application. 6. In the resultant, both the applications i.e. for review and condonation of delay are hereby dismissed. No order as to costs.

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