

(2019) 01 CAT CK 0006

In the Central Administrative Tribunal

Case No : Review Application No. 56 Of 2014, Original Application No. 1115 Of 2007

Anoop Singh Rawat

APPELLANT

Vs

Union of India And Ors

RESPONDENT

Date of Decision : 04-01-2019

Acts Referred:

Code of Civil Procedure, 1908 — Order 47 Rule 1

Citation : (2019) 01 CAT CK 0006

Hon'ble Judges : Gokul Chandra Pati, J;Rakesh Sagar Jain, J

Bench : Division Bench

Advocate : Rakesh Verma, Shri H. Singh

Final Decision : Dismissed

Judgement

1. This order disposes of the Review Application filed by the petitioner A.S.Rawat seeking review of the order dated 12.11.2014 whereby O.A. 1115/2007 titled Anoop Singh Rawat v/s Union of India and others was disposed of.

2. In the O.A., applicant had sought the relief of holding the entire selection process of labourers as illegal and to direct the respondents to initiate fresh selection against seven general posts of labourers and to appoint the applicant A.S.Rawat in case he is found fit. The O.A. was dismissed with the remark that the respondent No. 1 shall institute an enquiry to be conducted by an officer not directly related to the department of the respondents, to go into the recruitments in this selection. The fairness of the selection of Shri Dipankar Kumar should be examined in particular, and if mal-practice and irregularity is found, as appears to be quite evident from the preliminary examination of records. Made by this Tribunal, then strict action should be taken as per rules against those officers who were found responsible for the same.

3. The applicant seeks review of the order on the ground:

1) Because there is error apparent on the face of the record, hence, the

judgement and order dated 12.11.2014 deserves to be reviewed by recalling and setting aside the same.

2) Because, the order and direction contained in the penultimate para of the judgement do not have nexus with the reasoning and observation made in the paragraph Nos. 29, 30, 31 & 32 of the judgement and order dated 12.11.2014.

4. Applicant seeks review of the order dated 12.11.2014 and thereby has prayed that the order dismissing the O.A. be reviewed and modified by holding the selection process to be illegal, quashing the impugned order dated 17.09.2007, directing the respondents to re-initiate fresh selection against seven general posts of labourers and to complete the same in accordance with law/rules in fair manner and to appoint the applicant A.S.Rawat in case he is found fit.

5. We have heard and considered the arguments of learned counsels for the parties and gone through the material on record and considered the written arguments of the applicant A.S.Rawat.

6. It is settled law that review jurisdiction is available only on the grounds prescribed under Order XLVII Rule 1 of the Code of Civil Procedure, which contains only three grounds -

(i) mistake or error apparent on the face of record;

(ii) discovery of new and important matter or evidence, which, even after exercise of due diligence, was not within the knowledge of the review petitioner or could not be produced by him at the time when the order sought to be reviewed was passed; and

(iii) for any other sufficient reason.

7. The law governing the scope of review has been very succinctly laid down by the Hon'ble Court in:

I. *Ajit Kumar Rath v. State of Orissa and others*, (1999) 9 SCC 596, a review cannot be claimed or asked for merely for a fresh hearing, or arguments, or correction of an erroneous view taken earlier. That is to say, the power of review can be exercised only for correction of a patent error of law or fact which stares in the face without any elaborate argument being needed for establishing it. Any other attempt, except an attempt to correct an apparent error, or an attempt not based on any ground set out in Order 47 of the Code of Civil Procedure, would amount to an abuse of the liberty given to the Tribunal under the Act to review its judgment.

II. *Union of India v. Tarit Ranjan Das*, 2004 SCC (L&S) 160, the scope for review is rather limited, and it is not permissible for the forum hearing the review application to act as an appellate court in respect of the original order, by a fresh order and rehearing the matter to facilitate a change of opinion on merits.

III. *Inder Chand Jain(Dead) Through Lrs, Vs.Motilal (Dead) Through Lrs.*

Reported in (2009) 14 SCC 663, It is beyond any doubt or dispute that the review court does not sit in appeal over its own order. A rehearing of the matter is impermissible in law or pronounced, it should not be altered. It is also trite that exercise of inherent jurisdiction is not invoked for reviewing any order.

IV. Review is not appeal in disguised. In Lily Thomas Vs. Union of India, It follows, therefore, that the power of review can be exercised for correction of a mistake but not to substitute a view. Such powers can be exercised within the limits of the statute dealing with the exercise of power. The review cannot be treated like an appeal in disguise."

8. Keeping in mind the principles laid down by the Hon'ble Apex Court in the above decisions, We have considered the claim of the review petitioner and find out whether a case has been made out by him for review of the order dated 12.11.2014 whereby O.A. 1115 of 2007 titled Anoop Singh Rawat v/s Union of India was disposed of with certain direction without giving the prayer of applicant for his appointment if found fit.

9. After going through the records of OA No. 1115 of 2007 and of the present R.A., We have found that the applicant-review has more or less repeated his old pleas which apparently were not accepted by the Tribunal, vide order dated 12.11.2014 (ibid). It has been averred in application by the applicant that the Tribunal has failed to appreciate the materials available on record as well as the contentions raised by him. A review is by no means an appeal in disguise whereby an erroneous decision is reheard and corrected, but lies only for patent error. The appreciation of evidence/ materials on record, being fully within the domain of the appellate court, cannot be permitted to be advanced in the review petition. In a review petition, it is not open to the Tribunal to re-appreciate the evidence/materials and reach a different conclusion, even if that is possible. Conclusion arrived at on appreciation of evidence/materials and contentions of the parties, which were available on record, cannot be assailed in a review petition, unless it is shown that there is an error apparent on the face of the record or for some reason akin thereto. The applicant has not shown any material error, manifest on the face of the order under review dated 01.06.2017, which undermines its soundness, or results in miscarriage of justice. If the applicant-review petitioner is not satisfied with the order passed by this Tribunal, remedy lies elsewhere. The scope of review is very limited. It is not permissible for the Tribunal to act as an appellate court.

10. Through this review application, the review applicant wants to re-open the entire issue afresh which is not permissible in review. Review is permissible if there is an error of procedure apparent on the face of the record. The order was passed after hearing both the parties and all the points were discussed in the judgment which is again taken by the applicant in the review application, as such, found no error apparent on the face of record.

11. In the light of what has been discussed above, We do not find that the review

application is covered by the aforementioned three grounds to justify a review of the order dated 12.11.2014.

12. We do not find any valid ground to interfere. Thus, the review application is dismissed. No order as to costs.