

(2024) 01 CAT CK 0009

In the Central Administrative Tribunal

Case No : Review Application No. 62 Of 2023 (On Behalf Of The Original Applicant) In Original Application No. 137 Of 2014

Asad Hussain

APPELLANT

Vs

Union Of India & Others.

RESPONDENT

Date of Decision : 04-01-2024

Acts Referred:

Central Administrative Tribunal (Procedure Rules, 1987) — Rule 17
Code Of Civil Procedure, 1908 — Order 47 Rule 1

Citation : (2024) 01 CAT CK 0009

Hon'ble Judges : Dr. Sanjiv Kumar, Member (A)

Bench : Single Bench

Advocate : Vinod Kumar, Shri

Final Decision : Dismissed

Judgement

Dr. Sanjiv Kumar, Member (A)

1. The instant Review Application has been filed by the applicant Asad Hussain under Rule 17 of the Central Administrative Tribunal (Procedure Rules 1987) to review the order dated 08.11.2023 (Annexure -1) passed by this Tribunal in OA No. 137/2014 (Asad Hussain vs. Union of India & Ors). The operative paragraphs of the order reads as under: -

"9. At present, there is no merit as such in the case over and above that in this particular case, it appears that the deceased had married twice once with Smt. Shayara Khatoon with whom the deceased had two sons- Zakir Hussain and Shakir Hussain. One of the two sons- Shakir Hussain had also applied for compassionate appointment and second wife Smt. Shammi Saheen had two sons and two daughters and out of them both sons as well as mother had applied for compassionate appointment. Now, even if, I believe the version of the applicant that there was a talaknama and there was formal divorce between the deceased employee and the Shayara Khatoon, the relationship of Shakir Hussain as son does not become nullified by the said talaknama or any divorce. His right as a

son of first wife for compassionate appointment still survives. Hence, his case cannot be challenged here by the applicant at this stage. If at all any decision has been taken by the respondent department on his application as he is also not party in this OA, those become absolutely irrelevant for the purpose of deciding this OA. But the department's contention, that Shakir Hussain being the undisputed son of the first wife of Shayara Khattoon whether divorced or not has a right also has a merit. From the very nature of the pleadings as well as affidavits and applications and cross applications filed by different siblings and step siblings and the mother, the applicant has made the compassionate appointment more like his vested civil right rather than something exceptional against the normal constitutional norms of public appointment and employment for extreme cases of penury and situation of extreme hardships and indigency at the time of the deceased sole bread winner of the family died and left the family in distress, and the applicant has failed to show anything on record which substantiates his case about abject penury and with passage of time more than one and half decade after the death at this stage he does not have any meritorious case to interfere with the impugned order of the department and considering the same, I pass following orders:-

The present Original Application is liable to be dismissed and accordingly dismissed."

2. The review application has been filed mainly on ground that while passing the order dated 08.11.2023, the Tribunal did not discuss the judgment of Hon'ble Apex Court dated 27.01.2000 passed in the case of Rameshwari Devi Vs. State of Bihar & Ors and the judgment dated 14.07.2010 passed by Hon'ble High Court, Calcutta in W.P.C.T No. 102/2010 – Smt. Namita Golder & Anr. Vs. U.O.I & Ors although these two judgments were supplied during the course of arguments.

3. I have carefully considered the Review Application and find that the grounds mentioned therein relate to non-consideration of some judgments cited by the applicant's counsel during the course of the arguments. However, a simple examination of the order dated 08.11.2023 passed by this Tribunal, it is very clear that most of the arguments put forth by the applicant's counsel has been considered and cannot be said that there is an error apparent on the face of the order dated 08.11.2023. Under Order 47 Rule 1 of CPC, the scope for review of the order passed by this Tribunal is limited only on the grounds of (i) discovery of any new and important facts or evidence which was not within the applicant's knowledge and which could not be produced at the time of consideration of the O.A.; or (ii) some mistake or error apparent on the fact of the record; or (iii) for any other sufficient reasons. Hence, the grounds mentioned in the Review Application cannot be treated as mistakes or errors apparent on the fact of the record.

4. Apart from the above, the scope of review is very limited. Review applications to review the order of the Tribunal are considered by the Tribunal under Rule 1 of the Order 47 of the Civil Procedure Code (in short CPC), which states as under:-

“1. Application for review of judgement

(1) Any person considering himself aggrieved-

(a) by a decree or order from which an appeal is allowed, but from no appeal has been preferred,

(b) by a decree or order from which no appeal is allowed, or

(c) by a decision on a reference from a Court of Small Causes,

and who, from the discovery of new and important matter or evidence which, after the exercise of due diligence, was not within his knowledge or could not be produced by him at the time when the decree was passed or order made, or on account of some mistake or error apparent on the face of the record, or for any other sufficient reason, desires to obtain a review of the decree passed or order made against him, may apply for a review of judgement to the Court which passed the decree or made the order.

(2) A party who is not appealing from a decree or order may apply for a review of judgement notwithstanding the pendency of an appeal by some other party except where the ground of such appeal is common to the applicant and the appellant, or when, being respondent, he can present to the Appellate Court the case on which he applies for the review.

[Explanation.-The fact that the decision on a question of law on which the judgement of the Court is based has been reversed or modified by the subsequent decision of a superior Court in any other case, shall not be a ground for the review of such judgement.]”

From above provisions of the Rule 1 of the Order 47, the scope of review by this Tribunal is limited to the grounds of (i) discovery of any new and important facts or evidence which after exercise of due diligence, was not within the applicant's knowledge and which could not be produced at the time of consideration of the O.A.; or (ii) some mistake or error apparent on the face of the record; or (iii) for any other sufficient reasons.

5. The above provisions of Rule 1 of Order 47 have been elaborated and explained in various judgments of Hon'ble Apex Court including in the case of Ajit Kumar Rath vs. State of Orissa and Ors – AIR 2000 Supreme Court 85. All these pronouncements lay down restrictions on consideration of review applications.

6. In view of all above, there is no error or mistake apparent on the face of the record which has been pointed out by the applicant in the Review Application. The grounds mentioned in the Review Application do not include any of the deficiencies specified under Rule 1 Order 47 of the CPC in order to justify the review of the impugned order. If the applicant is aggrieved by this order, he is free to take appropriate steps to agitate the matter in the higher forum. Hence, on merits, the Review Application is not maintainable.

7. In view of the above, the Review Application is dismissed.