

(2022) 09 CAT CK 0016

In the Central Administrative Tribunal

Case No : Review Application No. 260, 0080 Of 2019

Bharat Sanchar Nigam Limited & Others

APPELLANT

Vs

Paresh Kumar Mallick

RESPONDENT

Date of Decision : 10-09-2022

Acts Referred:

Code Of Civil Procedure 1908 — Order 47 Rule 1
Constitution Of India, 1949 — Article 226

Citation : (2022) 09 CAT CK 0016

Hon'ble Judges : Swarup Kumar Mishra, Member (J)

Bench : Single Bench

Advocate : S.B. Jena, P.K. Behera

Final Decision : Dismissed

Judgement

Swarup Kumar Mishra, Member (J)

1. The OA was filed by the applicant challenging and seeking to quash the order rejecting his grievance for appointment on compassionate ground upon the premature death of his father while working under the respondents/BSNL with further prayer to direct the respondents to consider his grievance for appointment on compassionate ground. This Tribunal vide order dated 26.08.2019, after taking into consideration the facts and law, quashed the impugned order dated 14.10.2014 and, as a consequence, directed the respondents/BSNL to reconsider his case within a period of 90 days from the date of receipt of the order. By filing this R.A. on 19.09.2019, the Review applicants/BSNL has sought to review the order on the grounds, sum and substance of which are as under:

(i) The father of the applicant had died on 03.10.2001 and the applicant claimed compassionate appointment after 18 years.

(ii) The Tribunal did not consider the fact that the motive of compassionate appointment is to tide over the sudden crisis of the members of the family vide

Hon'ble Supreme Court order in Civil Appeal No. 2425/2019 in the case of Govt. of India & Anr. Vs. P.Venkatesh.

2. Although, as per the rules, this RA ought to have been disposed of on circulation, for the sake of principle of natural justice, this matter is listed before the Bench to allow the parties to place their respective cases. Learned counsel appearing for the Review Applicants has reiterated the stand taken in the RA to the effect that the Tribunal passed the order contrary to the decision of the Hon'ble Apex Court and, therefore, the order needs to be reviewed. Having heard, perused the records.

3. It may be recorded that the provision for review of a judgment/order under Order 47 Rule 1 CPC provides that a party can seek review of a judgment/order on the grounds (a) from the discovery of new and important matters or evidence which after the exercise of the due diligence was not within the knowledge of the applicant; (b) such important matter or evidence could not be produced by the applicant at the time when the decree was passed or order made; and (c) on account of some mistake or error apparent on the face of the record or any other sufficient reasons. The power of review can be exercised for correction of a mistake but not to substitute a view. The mere possibility of two views on the subject is not a ground for review [Lily Thomas & Ors.vs. Union of India & Ors., (2000) 6 SCC 224]. A review is by no means an appeal in disguise whereby an erroneous decision is re-heard and corrected, but lies only for patent error [Parsion Devi & Ors. vs. Sumitri Devi & Ors., (1997) 8 SCC 715]. A review of a judgment is a serious step and reluctant resort to it is proper only where a glaring omission or patent mistake or like grave error has crept in earlier by judicial fallibility vide Col.Avtar Singh Sekhon vs. Union of India & Ors., 1980 (Supp) SCC 562. Further the Hon'ble Apex Court after taking into consideration the aforesaid provision and law, in the case of Aribam Tuleshwar Sharma Vs Aribam Pishak Sharma and Ors., (1979) 4 SCC 389, have held as under:

"It is true as observed by this Court in Shivdev Singh and Ors. v. State of Punjab and Ors. AIR 1963 SC 1909 there is nothing in Article 226 of the Constitution preclude a High Court from exercising the power of review which inherent in every Court of plenary jurisdiction to prevent miscarriage of justice or to correct grave and palpable errors committed by it. But, there are definitive limits to the exercise of power of review. The power of review may be exercised on the discovery of new and important matter or evidence which, after the exercise of due diligence was not within the knowledge of the person seeking the review or could not be produced by him at the time when the order was made; it may be exercised where some mistake or error apparent on the face of the record is found; it may also be exercised on any analogous ground. 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." [emphasis supplied]

4. It is not the case of the Review Applicants/BSNL in this Review Application that any error committed on the face of record nor is it their case that they have discovered any new and important matter which after the exercise of due diligence was not within their knowledge or could not be brought to the notice of the Court at the time of passing of the judgment. All pleas raised before this Tribunal were in fact addressed and after considering those pleas, this Tribunal passed the final order. No mistake or error apparent on the face of record is also found in the order requiring a review.

5. In view of the discussions made above, this Tribunal is of the considered view that this RA does not have any legs to stand and, therefore, the same is liable to be dismissed and is accordingly dismissed. No costs.