

(2021) 08 CAT CK 0036

In the Central Administrative Tribunal

Case No : Review Application No. 52 Of 2021 In Original Application No. 861 Of 2021

B.S. Jarial

APPELLANT

Vs

Govt. Of NCT Of Delhi & Others

RESPONDENT

Date of Decision : 09-08-2021

Acts Referred:

Code Of Civil Procedure 1908 — Section 22(3)(f), 114
Code Of Civil Procedure 1908 — Order 47 Rule 1

Citation : (2021) 08 CAT CK 0036

Hon'ble Judges : Manjula Das, J;A.K. Bishnoi, Member (A)

Bench : Division Bench

Advocate : Avani Kaushal

Final Decision : Dismissed

Judgement

Manjula Das, J

Through Video Conferencing

1. The applicant was working as Deputy Superintendent Grade I in Central Jail, Tihar, New Delhi and superannuated from service on 29.02.2016. Complaining that he was not promoted to the post of Superintendent Jail, the applicant filed O.A. No.861/2021 before the Tribunal, which was dismissed on 15.04.2021. He has now filed the R.A. with a prayer to review the order dated 15.04.2021 passed in the O.A.

2. We perused the record and heard the arguments of the review applicant, who appeared in person and Ms. Avani Kaushal, learned counsel for Ms. Esha Mazumdar, learned counsel for respondents.

3. From a perusal of the record, it is seen that the order of the Tribunal is a detailed one, and it was passed relying upon various judgments of the Hon'ble Supreme Court. It was observed that the relief sought by the applicant to consider his case for promotion to the post of Superintendent Jail with effect

from 2002 is highly belated.

4. Under Order XLVII Rule 1 CPC, a judgment may be open to review inter alia if there is a mistake or an error apparent on the face of the record. An error, which is not self-evident and has to be detected by a process of reasoning, can hardly be said to be an error apparent on the face of the record justifying the Court to exercise its power of review.

5. It is stare decisis that even when the order passed is wrong and erroneous, the R.A. would not be maintainable. It can be entertained only on the limited grounds, such as (i) there is an error apparent on the face of record, (ii) some such documents, which could not be produced at the time of final adjudication despite due diligence, are brought to the notice of the Court with Review Application and (iii) there is some other sufficient reason. We do not find any such ground in the present proceedings.

6. Further, the Hon'ble Supreme Court in *State of West Bengal & others v. Kamal Sengupta & another*, (2008) 2 SCC (L&S) 735 considered the prevalent restrictions imposed upon the Courts for undertaking a review of their own judgment and have consolidated the same under paragraph 35, which reads as under:-

"35. The principles which can be culled out from the above noted judgments are :

(i) The power of the Tribunal to review its order/decision under Section 22(3)(f) of the Act is akin/analogous to the power of a Civil Court under Section 114 read with Order 47 Rule 1 of CPC.

(ii) The Tribunal can review its decision on either of the grounds enumerated in Order 47 Rule 1 and not otherwise.

(iii) The expression "any other sufficient reason" appearing in Order 47 Rule 1 has to be interpreted in the light of other specified grounds.

(iv) An error which is not self-evident and which can be discovered by a long process of reasoning, cannot be treated as an error apparent on the face of record justifying exercise of power under Section 22(3)(f).

(v) An erroneous order/decision cannot be corrected in the guise of exercise of power of review.

(vi) A decision/order cannot be reviewed under Section 22(3)(f) on the basis of subsequent decision/judgment of a coordinate or larger bench of the Tribunal or of a superior Court.

(vii) While considering an application for review, the Tribunal must confine its adjudication with reference to material which was available at the time of initial decision. The happening of some subsequent event or development cannot be taken note of for declaring the initial order/decision as vitiated by an error apparent.

(viii) Mere discovery of new or important matter or evidence is not sufficient ground for review. The party seeking review has also to show that such matter or evidence was not within its knowledge and even after the exercise of due diligence, the same could not be produced before the Court/Tribunal earlier.

7. As such, on the face of record, we do not find any error apparent in the order dated 15.04.2021 passed by the Tribunal. The R.A. is accordingly dismissed. There shall be no order as to costs.