

(2018) 05 CAT CK 0108

In the Central Administrative Tribunal

Case No : Review Application No. 62 Of 2018, Original Application No. 2380 Of 2015

Deepak Kumar

APPELLANT

Vs

Union Of India And Ors

RESPONDENT

Date of Decision : 02-05-2018

Acts Referred:

Administrative Tribunals Act, 1985 — Section 22(3)(a), 22(3)(b), 22(3)(c), 22(3)(d), 22(3)(e), 22(3)(f), 22(3)(g), 22(3)(i)
Code Of Civil Procedure, 1908 — Section 114, Order 47 Rule 1

Citation : (2018) 05 CAT CK 0108

Hon'ble Judges : K.N. Shrivastava, Member (A)

Bench : Single Bench

Final Decision : Dismissed

Judgement

1. Through the medium of this Review Application (RA), review of the Tribunal's order dated 13.02.2018 in OA No.2380/2018 has been sought by the applicant, who was also applicant in the OA.

Vide the order under review the following direction was issued to the respondents:

"4. In this view of the matter, I am convinced that ends of justice would be met only by directing the respondents to consider the case of the applicant for compassionate appointment on merits. Let the said consideration be accorded by the respondents within a period of three months from the date of receipt of copy of this order."

2. The grounds pleaded in the RA for seeking review are broadly as under

i) The applicant's mother was considered twice in the years 2000 and 2003 for compassionate appointment for the post of Gramin Dak Sewak (GDS) but she could not be issued offer of appointment on the ground that she was an illiterate person. This aspect has not been taken note of by the Tribunal.

ii) The ruling of the Hon'ble Apex Court that the whole object of granting compassionate appointment is to enable the family to tide over the sudden crisis and to save it from the financial destitution. The compassionate appointment cannot be granted after a lapse of reasonable period.

3. It is settled law that sine qua non for review of an order is existence of an error apparent on the face of the record of the order. In the instant case the review applicant has failed to point out any apparent error on the face of the Tribunal's order.

4. On the power of the Tribunal to review its own orders, the Hon'ble Supreme Court has laid down clear guidelines in its judgment in the case of State of West Bengal & others Vs. Kamal Sengupta and another, [2008 (3) AISLJ 209] stating therein that

"the Tribunal can exercise powers of a Civil Court in relation to matter enumerated in clauses (a) to (i) of sub-section (3) of Section (22) of Administrative Tribunal Act including the power of reviewing its decision."

At Para (28) of the judgment, the principles culled out by the Supreme Court are as under:-

"(i) The power of 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 specific grounds

(iv) An error which is not self-evident and which can be discovered by a long process of reasoning, cannot be treated as a error apparent in the fact of record justifying exercise of power under Section 22(2) (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 a larger bench of the Tribunal or of a superior court

(vii) A decision/order cannot be reviewed under Section 22(3)(f).

(viii) 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.

(ix) 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."

5. For the reasons discussed in the foregoing paras, I do not find any merit in the RA. Accordingly, the RA is dismissed in circulation.