

(2018) 01 CAT CK 0050

In the Central Administrative Tribunal

Case No : Review Application No. 9 Of 2017, Original Application No. 4539 Of 2014

Jagbir Singh

APPELLANT

Vs

Union Of India And Others

RESPONDENT

Date of Decision : 18-01-2018

Acts Referred:

Administrative Tribunals Act, 1985 — Section 22(3)(f)
Code Of Civil Procedure, 1908 — Section 114, Order 47 Rule 1

Citation : (2018) 01 CAT CK 0050

Hon'ble Judges : V. Ajay Kumar, Member (J); Nita Chowdhury, Member (A)

Bench : Division Bench

Advocate : B.K.Berera, Shamsuddin Khan

Final Decision : Dismissed

Judgement

Nita Chowdhury, Member (A)

1. The facts, in brief, are that while deciding the Original Application (OA) bearing No.4539/2014, this Tribunal considered all the issues raised by the Review Applicant and disposed of the same on merits on 25.10.2016 (Annexure-RA-1). The operative part of the said order reads as under:-

"29. In conclusion, we can say that all the applicants were appointed in a project which has since closed w.e.f. 1.4.2006, their attempt to be declared Central Government servants had met with frustration due to the judgment of the Hon'ble Supreme Court in CA No. 7999/2002 with CA Nos. 4313-4319/2003 dated 10.11.2006. Moreover, the decision in OA No. 711/2005 reached a fulfillment with the decision of the Hon'ble Supreme Court. The Hon'ble Supreme Court has never directed that the pension be given to the applicants in the instant case. Moreover, we also find that the decision in the case of Nirmala Venkateswar by the Madras High Court differs in facts to the instant case. Hence, we find that there are absolutely no grounds for this Tribunal to interfere with the order dated 28.07.2014. As such, the OA is dismissed. No costs."

2. Now the Review Applicant has filed the present RA bearing No.9/2017 for reviewing the indicated order, mainly on the same grounds which he had taken while arguing the OA. All the grounds were considered by this Tribunal while deciding the main OA. Thus review applicant cannot be permitted to re-agitate all the points again. Moreover, the scope for review is rather very limited and it is not permissible for the forum hearing the review application to act as an Appellate Authority in respect of the original order by a fresh and re-hearing of the matter to facilitate a change of opinion on merits as held by the Hon'ble Apex Court.

3. It is now well settled principle of law that the earlier order can only be reviewed if the case squarely falls within the legal ambit of review and not otherwise. Order 47 Rule 1 CPC read with Section 22(3)(f) of the Administrative Tribunals Act, 1985 regulates the provisions of review of the orders. According to the said provision, a review will lie only when there is discovery of any new and important matter or evidence which, after the exercise of due diligence was not within his knowledge or could not be produced by the review applicant seeking the review at the time when the order was passed or made on account of some mistake or error apparent on the face of the record. It is now well settled principle of law that the scope for review is rather limited and it is not permissible for the forum hearing the review application to act as an Appellate Authority in respect of the original order by a fresh and re-hearing of the matter to facilitate a change of opinion on merits. The reliance in this regard can be placed on the judgments of the Hon'ble Supreme Court in cases of Parsion Devi and Others vs. Sumitri Devi and Others (1997) 8 SCC 715, Ajit Kumar Rath Vs. State of Orissa (1999) 9 SCC 596, Union of India Vs. Tarit Ranjan Das (2003) 11 SCC 658 and Gopal Singh Vs. State Cadre Forest Officers' Association & Others (2007) 9 SCC 369.

4. An identical question came up to be decided by Hon'ble Apex Court in case State of West Bengal and Others Vs. Kamal Sengupta and Another (2008) 8 SCC 612. Having interpreted the scope of review and considering the catena of previous judgments mentioned therein, the following principles were culled out to review the orders:-

"(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".

5. Meaning thereby, the original order can only be reviewed if case strictly falls within the domain of Order 47 Rule 1 CPC read with Section 22(3)(f) of the Administrative Tribunals Act, 1985 and not otherwise. In the instant RA, the review applicant has not pointed out any error apparent on the face of record warranting a review of the order dated 25.10.2016 (Annexure-RA-1). Moreover, the issues now sought to be urged, were subject matter of the OA and have already been adjudicated upon by the Tribunal.

6. In the light of the aforesaid reasons, as there is no apparent error on the face of record, so no ground is made out to entertain the present Review Application, which is accordingly dismissed.