

(2020) 03 CAT CK 0015

In the Central Administrative Tribunal

Case No : Review Application No. 39 Of 2020 In Original Application No. 3564 Of 2014

Manoj Kumar

APPELLANT

Vs

All India Institute Of Medical Sciences

RESPONDENT

Date of Decision : 04-03-2020

Acts Referred:

Central Administrative Tribunal (Procedure) Rules, 1987 — Rule 17

Citation : (2020) 03 CAT CK 0015

Hon'ble Judges : Mohd. Jamshed, Member (A), S. N. Terdal, Member (J)

Bench : Division Bench

Final Decision : Dismissed

Judgement

Mohd. Jamshed, Member (A)

1. The present RA No. 39/2020 has been filed against the order passed in OA No. 3564/2014 on 28.01.2020. The same is being considered in terms of Rule 17 of the CAT (Procedure) Rules, 1987. The applicant by filing this RA is seeking review of the order dated 28.01.2020 passed in OA No. 3564/2014 primarily by highlighting the averments made by the respondents in the counter affidavit regarding the applicant's suspension and also about his unauthorized leave period stated in the judgment. These have been specially mentioned in the order, as the averments made by the respondents in their counter affidavit. The reasoning in the order is, however, based entirely on the facts and merits of the case as highlighted by the applicant and the limitation of judicial review by the Tribunal and Courts as laid down by the Hon'ble Apex Court in its Judgment in State of Andhra Pradesh and Ors. Vs. S. Sree Rama Rao, 1963 AIR 1723.

2. We have carefully considered the plea made in the RA, which is nothing more than reiteration of various points raised in the OA. The review applicant has prayed that the order dated 28.01.2020 be reviewed. Due consideration had been given to all averments made in the order passed in the OA No. 3564/2014 and any further deliberations on these points would be akin to reconsidering the

same and going into the merits of the case by re-writing another judgment.

3. As far as 'Review' is concerned, in the case of *Ajit Kumar Rath vs. State of Orissa and others*, 1999 (9) SCC 596, the Hon'ble Supreme Court has observed as under:-

"The provisions extracted above indicate that the power of review available to the Tribunal is the same as has been given to a court under Section 114 read with Order 47 CPC. The power is not absolute and is hedged in by the restrictions indicated in Order 47. The power can be exercised on the application of a person on 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 order was made. The power can also be exercised on account of some mistake or error apparent on the face of the record or for any other sufficient reason. A review cannot be claimed or asked for merely for a fresh hearing or arguments or correction of an erroneous view taken earlier, that is to say, the power of review can be exercised only for correction of a patent error of law or fact which stares in the face without any elaborate argument being needed for establishing it. It may be pointed out that the expression "any other sufficient reason" used in Order 47 Rule 1 means a reason sufficiently analogous to those specified in the rule.

Any other attempt, except an attempt to correct an apparent error or an attempt not based on any ground set out in Order 47, would amount to an abuse of the liberty given to the Tribunal under the Act to review its judgment."

[Emphasis added]

4. The same points were further reiterated by the Hon'ble Supreme Court in the case of *Gopal Singh Vs. State Cadre Forest Officers' Assn. and others*, (2007 (9) SCC 369), the Hon'ble Supreme Court observed as follows:-

"25. The learned counsel for the State also pointed out that there was no necessity whatsoever on the part of the Tribunal to review its own judgment. Even after the microscopic examination of the judgment of the Tribunal we could not find a single reason in the whole judgment as to how the review was justified and for what reasons. No apparent error on the face of the record was pointed, nor was it discussed. Thereby the Tribunal sat as an appellate authority over its own judgment. This was completely impermissible and we agree with the High Court (Justice Sinha) that the Tribunal has traveled out of its jurisdiction to write a second order in the name of reviewing its own judgment. In fact the learned counsel for the appellant did not address us on this very vital aspect."

5. In view of the above mentioned and having considered the submissions made in the RA, it is obvious that the review applicant has not been able to demonstrate whether any point has been left out or missed the attention of the Tribunal while passing the said order in the OA.

6. Thus on the basis of the observations made above, we are of the view that the

applicant has not been able to point out any error apparent on the face of record. Rather, the review applicant is trying to reargue the whole case, which is not permissible in view of the aforesaid observations of the Hon'ble Supreme Court. Therefore, this RA is accordingly dismissed in circulation.