
(2018) 12 CAT CK 0126

In the Central Administrative Tribunal

Case No : Review Application No. 91 Of 2018 In Original Application No. 358 Of 2017

Meena

APPELLANT

Vs

Union Of India Through The Secretary

RESPONDENT

Date of Decision : 14-12-2018

Acts Referred:

Code Of Civil Procedure, 1908 — Section 114, Order 47 Rule 1
Constitution Of India, 1950 — Article 226

Citation : (2018) 12 CAT CK 0126

Hon'ble Judges : Praveen Mahajan, Member (A)

Bench : Single Bench

Advocate : Yogesh Sharma, Rajinder Nischal

Final Decision : Dismissed

Judgement

1. This review application has been filed for review of Tribunal order dated 20.02.2018 by which OA-358/2017 was dismissed.

2. Existence of error apparent on the face of record is sine qua non for entertainment of the review application.

3. I have perused the judgment under review as also the grounds of review. I do not find any error apparent on the face of record warranting interference in exercise of the review jurisdiction.

4. While considering the scope of review, Hon'ble Supreme Court in the case of Aribam Tuleswar Sharma Vs. Aribam Pishak Sharma, (1979) 4 SCC 389 referred to an earlier decision in the case of Shivdeo singh Vs. State of Punjab, AIR 1963 SC 1909 and observed as under:-

"It is true as observed by this Court in Shivdeo Singh v. State of Punjab, AIR 1963 SC 1909, there is nothing in Article 226 of the Constitution to preclude a High Court from exercising the power of review which is 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 the 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 matters or errors committed by the Subordinate Court."

4.1 Similarly in the case of *Ajit Kumar Rath Vs. State of Orissa and Others*, AIR 2000 SC 85 the Apex Court reiterated that power of review vested in the Tribunal is similar to the one conferred upon a Civil Court and held:-

"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 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 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]

5. On the basis of above, I feel that review is not an appropriate remedy in this case. If the applicant is aggrieved by this order, the right course of action would be to challenge it before the appropriate forum. Hence, the review application is rejected.