

CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH, CUTTACK

R.A.No.260/6/2020
(Arises out of O.A.No.260/485/2016 disposed of on 15.11.2019)

Date of Reserve::28.02.2020
Date of Order:13.03.2020

CORAM:
HON'BLE MR.GOKUL CHANDRA PATI, MEMBER(A)
HON'BLE MR.SWARUP KUMAR MISHRA, MEMBER(J)

Union of India represented through its Secretary-cum-D.G.(Posts) & Ors.

...Review Applicants
By the Advocate(s)-Mr.C.M.Singh

-VERSUS-
Sri Rabinarayan Sahoo...Review Respondent

By the Advocate(s)- None

ORDER

PER SWARUP KUMAR MISHRA, MEMBER(J):

In this Review Application, order dated 15.11.2019 passed by this Tribunal in O.A.No.485/ of 2016 is sought to be reviewed by the Union of India represented through its Secretary-cum-D.G. (Posts) & Ors., being the review applicants. It is to be noted that vide order dated 15.11.2019, this Tribunal had disposed of the above mentioned O.A. in the following terms.

- “11. For the reasons discussed above, we quash and set aside the Article of Charge at A/4, orders of the Disciplinary Authority dated 24.04.2014 (A/6) and the orders of the Appellate Authority dated 28.10.2015 (A/8) and direct the respondents to refund the amount already deducted from the salary of the applicant within a period of one month from the date of receipt of this order, failing which, the respondents shall be liable to pay interest on the delayed period till the actual payment is made.
- 12. In the result, the O.A. is thus allowed, with no order as to costs”.

2. The basic ground urged by the review applicants seeking review of the above mentioned order is that in a similar matter in O.A.No.862 of 2015 – disposed of on 17.09.2019, this Tribunal granted liberty to the Respondent-Department therein to identify

the officials who were responsible for inaction and who should have taken action under the rules to prevent retention of excess cash balance and misappropriation and initiate appropriate disciplinary action against them in accordance with the provisions of law. In view of this, the review applicants have stated that the review-respondent being the subsidiary offender, the other offenders having been identified for their lapses, responsibility has been fixed and recovery of loss ordered in a proportionate manner as in the case of review respondent herein and therefore, the order dated 15.11.2019 in O.A.No.485 of 2016 needs to be reviewed.

3. Heard the learned counsel for the review applicants and perused the records. A perusal of order dated 17.09.2019 in O.A.No.862 of 2015 reveals that the allegation levelled against the applicant therein is different and distinct from the applicant in O.A.No.485 of 2016 the final order in which is sought to be reviewed. Secondly, this Tribunal having regard to the well settled principle of law laid down in *Sukemal Bag vs. UOI & Ors.* by the Hon'ble High Court of Orissa in W.P.(C) No.4343 of 2011, in Paragraph-10 of the order sought to be reviewed, held as follows:

"10. We may add that in the instant case, there were other officials who appear to have been contributing negligence in their duties which led to commission of fraud by Shri Balabant Ray left scot free whereas only the applicant was proceeded against and imposed punishment. Besides this, we would also like to note that even if there was clear indication about the conduct and integrity of Shri Balabant Ray not to post him in sensitive seat dealing with cash transactions, the reasons best known, the same was utterly disregarded. Since, in the instant case, involvement of many officials to the contributory negligence is writ large, it was improper and unreasonable on the part of the respondents authority to proceed against and punishment the applicant alone".

4. At this stage, we would like to note that the scope of review is very limited as per the settled principle of law enunciated by the Hon'ble Apex Court from time to time.

5. **In M/s.Thungabhadra Industries Ltd. Vs. The Government of Andhra Pradesh [AIR 1964 SC 1372]**, the Hon'ble Supreme Court has held that -

"A review is by no means an appeal in disguise whereby an erroneous decision is reheard and corrected, but lies only for patent error. We do not consider that this furnishes a suitable occasion for dealing with this difference exhaustively or in any great detail, but it would suffice for us to say that where without any elaborate argument one could point to the error and say here is a substantial point of law which stares one in the face, and there could reasonably be no two opinions entertained about it, a clear case of error apparent on the face of the record would be made out."

6. Similarly, it has been held by the Hon'ble Apex Court in **Chandra Kanta and another Vs. Sheikh Habib [AIR 1975 SC 1500]** that –

"A review of a judgment is a serious step and reluctant resort to it is proper only where a glaring omission or patent mistake or like grave error has crept in earlier by judicial fallibility. A mere repetition through different counsel of old and overruled arguments, a second trip over ineffectually covered ground or minor mistakes of inconsequential import are obvious insufficient."

7. Further in **Meera Bhanja Vs. Smt. Nirmala Kumari Choudhury [AIR 1995 SC 455]**, the Hon'ble Supreme Court has held as under:-

"Error apparent on face of record, means an error which strikes one on mere looking at record and would not require any long drawn process of reasoning on points where there may conceivably be two opinions."

4. In view of the above, we are of the opinion that there is no error apparent on the face of record.

5. For the reasons aforesaid, the RA is dismissed, with no order as to costs.

(SWARUP KUMAR MISHRA)
MEMBER(J)

(GOKULCHANDRA PATI)
MEMBER(A)

