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**CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH**

Review Application NO.180/00043/2019
IN
Original Application No.180/00033/2017

Monday, this the 6th day of January, 2020

CORAM:

HON'BLE Mr.E.K.BHARAT BHUSHAN,	...ADMINISTRATIVE MEMBER
HON'BLE MR.ASHISH KALIA,	...JUDICIAL MEMBER

Mahesh M.,
Aged 36 years,
S/o S.Mohanan,
Point Man-1,
Traffic Inspector Office,
Ernakulam South (New Address)
Old Address: SS/O/MTNC, and residing at
20B Railway Quarters,
Willington Island road,
Kochi – 682 029.

....Reveiw Applicant

(By Advocate Mr. Aginov Mathappan)

Versus

1. The Divisional Railway Manager,
Railway Divisional Office,
Thiruvananthapuram,
Divisional Southern Railway,
Thycadu,
Thiruvananthapuram-695 014.
2. The Sr. Divisional Personnel Officer,
Railway Divisional Office,
Thiruvananthapuram,
Division Southern Railway,
Thycadu,
Thiruvananthapuram – 695 014.

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3. The Union of India,
represented by the Secretary
Department of Railway,
New Delhi – 110 011.

..... Respondents

ORDER
(BY CIRCULATION)

HON'BLE Mr.E.K.BHARAT BHUSHAN, ...ADMINISTRATIVE MEMBER

RA No.43/2019 in OA No.33/2017 has been filed by the applicant in OA. The OA had been dismissed by this Tribunal on 19.11.2019.

2. The RA is liable to be rejected on the grounds that no error apparent on the fact of the record has been cited in the Review application meriting a review. The scope for a review application is clearly defined in various orders of the Hon'ble Supreme Court. The Hon'ble Supreme Court in the case of ***State of West Bengal & others v. Kamal Sengupta and another (2008) 3 AISLJ 209*** has held that the Tribunal can exercise the powers of a Civil Court in relation to matters enumerated in clauses (a) to (i) of sub-section (3) of Section 22 of the Administrative Tribunals Act including the power of reviewing its decision. By referring to the power of a Civil Court to review its judgment/decision under Section 114 CPC read with Order 47 Rule 1 CPC, the Hon'ble Supreme Court laid down the principles subject to which the Tribunal can exercise the power of review. At para 28 of the said judgment the Hon'ble Supreme Court culled out the principles which are:

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- “(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 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.”*

3. Further, the Hon’ble Supreme Court in the case of **Ajit Kumar Rath v. State of Orissa, (1999) 9 SCC 596** has categorically held that a matter cannot be heard on merit in exercise of power of review and if the order or decision

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is wrong, the same cannot be corrected under the guise of power of review.

The scope for review petition and the circumstances under which such power can be exercised was considered by the Hon'ble Apex Court in **Ajit Kumar Rath's** case (*supra*) and held as under:

"The power of the Tribunal to review its judgment is the same as has been given to court under Section 114 read with Order 47. 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 of fact 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."

The Hon'ble Supreme Court in **Haridas Das V. Usha Rani Banik (Smt) and others – JT 2006(3) SC 526** held as under:

"Under Order XLVII, Rule 1, a judgment may be open to review inter alia, if there is a mistake or an error apparent on the face of the record. An error which is not self evident and has to be detected by a process of reasoning, can hardly be said to be an error apparent on the face of the record justifying the Court to exercise its power of review under Order XLVII, Rule 1 CPC, In exercise of the jurisdiction under Order XLVII, Rule 1 CPC, it is not permissible for an erroneous decision to be 'reheard and corrected'. A review petition, it must be remembered has a limited purpose and cannot be allowed to be 'an appeal in disguise'"

4. The review applicant has failed to point out any error much less an

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error apparent on the face of record justifying the exercise of power under sub-clause (f) of sub-section (3) of Section 22 of the Administrative Tribunals Act, 1985. The review application deserves to be dismissed and accordingly, the same is dismissed. No costs.

(ASHISH KALIA)
JUDICIAL MEMBER

(E.K.BHARAT BHUSHAN)
ADMINISTRATIVE MEMBER

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List of Annexures in R.A.No.180/00043/2019 in O.A.No.180/0033/2017

1. **Annexure RA-1** – True copy of the final order dated 19.11.2019 in OA. 180/33/2017 on the files of this Honourable Tribunal.
