

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH
JABALPUR

REVIEW APPLICATION NO.200/00039/2019
(in OA No.200/00967/2015)

Jabalpur, this Thursday, the 02nd day of January, 2020

HON'BLE MR.NAVIN TANDON, ADMINISTRATIVE MEMBER
HON'BLE MR.RAMESH SINGH THAKUR, JUDICIAL MEMBER

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-Applicant

V e r s u s

1. Union of India, through its Secretary, Ministry of
Communication & IT, Department of Posts, Dak Bhawn 1, Sansad
Marg, New Delhi-110001

2. Chief Postmaster General, M. P. Circle, Hoshangabad Road,
Bhopal 462012 (M.P.)

3. Director, Postal Services, Indore Region, Indore 452001

4. Superintendent of Post Offices, Khandwa Division, Khandwa
450001

-Respondents

O R D E R

By Ramesh Singh Thakur, JM-

This Review Application has been filed by the applicant to
review the order dated 03.12.2019 passed by this Tribunal in
Original Application No.200/00967/2015 on the grounds that
applicant is continuing on suspension since 25.03.2014 and when

all the relevant documents were procured in the investigation and in inquiry, the continuance of the suspension for a prolonged period is not justified and the order of extension of review issued by the respondents are not reasoned and speaking as to why suspensions should be continued and further the subsistence allowance as per FR 53 has increased.

2. We have perused the record of the file and as per reasons given in the order dated 03.12.2019 specifically from Para 12 to 15, whereas specific finding which are based on the pleadings putforth by the parties and it has been specifically indicated in the reasons in the findings that the respondent department has reviewed the issue regarding the subsistence allowance which are carried out by the disciplinary authority thrice and the disciplinary authority after due consideration has not ordered to increase/decrease of his subsistence allowance due to the reasons of non co-operation of the applicant in the departmental investigation which is based as per report of investigating officer dated 04.04.2014 (Annexure R/18). Regarding the suspension of the applicant was reviewed by the competent suspension review committee extended the period of suspension and the same was informed to the applicant by the competent authority and further respondents have taken action in accordance with law and the

revision of suspension allowance was considered by the competent authority and was rejected by assigning reasons. Moreover the appeal which was preferred against the suspension order was rejected and further revision was also rejected by competent authority. The every contention raised by the applicant has been dealt with as per pleadings. It is settled law that in the Review Application the scope of the Tribunal is limited and if there is an error apparent on the face of record only in that events the review can be done.

3. It may be noted that scope of review under the provisions of Order 47 Rule 1 of Civil Procedure Code, which provision is analogous to Section 22 (3) (f) of Administrative Tribunals Act, 1985 is very limited.

4. The power of review available to this Tribunal is the same as has been given to a Court under Section 114 read with Order 47 Rule 1 of the Civil Procedure Code. The apex court has clearly stated in **Ajit Kumar Rath Vs. State of Orissa and others**, (1999) 9 SCC 596 that: “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”. This Tribunal can not review its order unless the error is plain and apparent. It has clearly been further held by the apex court in the said case that: “[A]ny 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”.

5. Hon'ble Supreme Court in the matters of **Meera Bhanja (Smt.) Vs. Nirmala Kumari Choudhury (Smt.)**, (1995)1 SCC 170 referring to certain earlier judgments, observed that an error apparent on the face of record must be such an error which must strike one on mere looking at the record. An error which has to be established by a long-drawn process of reasoning on points where there may conceivably be two opinions can hardly be said to be an error apparent on the face of the record. Where an alleged error is far from self-evident and if it can be established, it has to be established by lengthy and complicated arguments, such an error can not be cured in a review proceeding.

6. It is also settled principle of law that the Tribunal cannot act as an appellate court for reviewing the original order. This proposition of law is supported by the decision of the Hon'ble Supreme Court in the case of **Union of India Vs. Tarit Ranjan**

Das, 2004 SCC (L&S) 160 wherein their lordships have held as under:

“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 order and *rehearing of the matter to facilitate a change of opinion on merits*. The Tribunal seems to have transgressed its jurisdiction in dealing with the review petition as if it was hearing an original application”.

7. Hon'ble Supreme Court in the matters of **State of West Bengal and others Vs. Kamal Sengupta and another**, (2008)2 SCC (L&S) 735 scanned various earlier judgments and summarized the principle laid down therein, which reads thus:

“35. The principles which can be culled out from the above-noted judgments are:

(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 CPC.

(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.”

8. Since no error apparent on the face of record has been pointed out by the applicant in the instant Review Application, warranting review of the order, in terms of the law laid down by the Hon'ble Supreme Court in the aforementioned cases, the present Review Application is misconceived and is liable to be dismissed.

9. Resultantly, this Review Application is dismissed.

(Ramesh Singh Thakur)
Judicial Member

(Navin Tandon)
Administrative Member

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