



**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH**

OA No. RA 130/2019
OA 219/2013
MA 3929/2015

Reserved on 06.03.2020
Pronounced on 17.03.2020

Hon'ble Mr. S.N.Terdal, Member (J)
Hon'ble Mr. A.K.Bishnoi, Member (A)

Union of India through:

1. Secretary,
Railway Board,
Ministry of Railways,
Rail Bhawan, New Delhi.
2. The General Manager
Northern Railway, Baroda House,
New Delhi.
3. The Divisional Railway Manager,
Northern Railway, State Entry Road,
New Delhi.

... Review Applicants/
Original respondents

(By Advocate Mr. Shailendra Tiwary)

VERSUS

Rajender Singh Rathi,
S/o Shri P.S. Rathi,
Loco Inspector under DRM
Northern Railway,
State Entry Road, New Delhi.

... Respondent/
(Original Applicant)

(By Advocate: Mr. Yogesh Sharma)



ORDER

Hon'ble Mr. S.N. Terdal, Member (J):

We have heard Mr.Shailendra Tiwary, counsel for review applicants (Original respondents) and Mr. Shailendra Tiwary, counsel for respondent (Original applicant), perused the pleadings and all documents produced by both the parties.

2. This RA has been filed for reviewing the order dated 31.10.2018 passed in OA No. 219/2019 on the ground that the Tribunal while passing the above said order did not appreciate the Railway Board Policy RBE No. 236/2009 dated 24.07.2009 regarding stepping up of pay being allowed only once and that the said Railway Board Policy shall be treated as rules framed under Article 309 of the Constitution as per the judgment of the Hon'ble Supreme Court in the case of **Railway Board vs. P.R. Subramaniam** (1978 (1) SC 158. From the perusal of the above said order dated 31.10.2018 it is clear that in para 6 and else were also the gist of the said policy was discussed and a view was taken after hearing the elaborate arguments and as such it is not a fit case for review. Review applicants relied upon the law laid down by the Hon'ble Supreme Court in the case of **Meera Bhanja (Smt) Vs. Nirmala Kumari Chaudhury (Smt)**



(1995) 1 SCC 170) and **Union of India Vs. Tarit Ranjan Das** (2004) SCC (L&S) 160).

3. The scope of review lies in a narrow compass as prescribed under Order XLVII, Rule (1) of CPC. None of the grounds raised in the RA brings it within the scope and purview of review. It appears that the review applicants are trying to re-argue the matter afresh, as if in appeal, which is not permissible. If in the opinion of the review applicants the order passed by the Tribunal is erroneous, the remedy lies elsewhere. Under the garb of review, the review applicants cannot be allowed to raise the same grounds, which were considered and rejected by the Tribunal while passing the order under review. In the case of **Meera Bhanja (Smt) Vs. Nirmala Kumari Chaudhury (Smt)** (1995) 1 SCC 170), the Hon'ble Supreme Court has observed as follows:-

"In the present case the approach of the Division Bench dealing with the review proceedings clearly shows that it has overstepped its jurisdiction under Order 47, Rule 1 CPC by merely styling the reasoning adopted by the earlier Division Bench as suffering from a patent error. It would not become a patent error or error apparent by doing so. The Review Bench has re-appreciated the entire evidence, sat almost as court of appeal and has reversed the



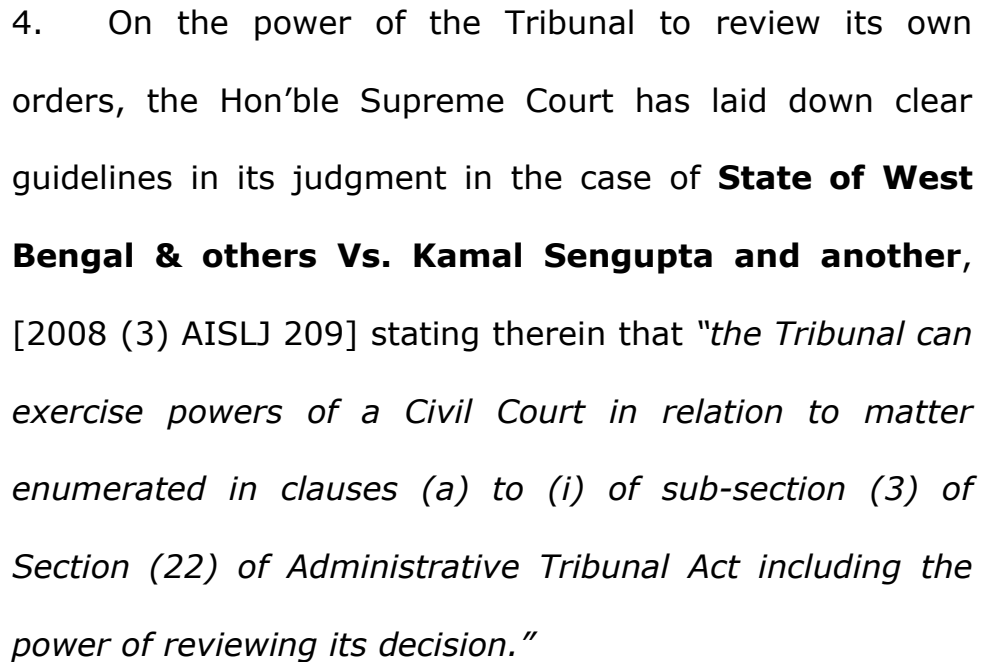
findings reached by the earlier Division Bench. Even if the earlier Division Bench's findings were found to be erroneous, it would be no ground for reviewing the same, as that would be the function of an appellate court...."

Again in the case of **Union of India Vs. Tarit Ranjan Das**

(2004) SCC (L&S) 160), the Hon'ble Supreme Court has observed as follows:-

13. The Tribunal passed the impugned order by reviewing the earlier order. A bare reading of the two orders shows that the order in review application was in complete variation and disregard of the earlier order and the strong as well as sound reasons contained therein whereby the original application was rejected. 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. This aspect has also not been noticed by the High Court."

3. Existence of an error apparent on the face of the record is *sine qua non* for reviewing the order. The review applicants have failed to bring out any error apparent on the face of the order under review.



"(i) The power of 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) of CPC.

(iii) The expression "any other sufficient reason" appearing in Order 47 Rule 1 has to be interpreted in the light of other specific grounds

(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 a larger bench of the Tribunal or of a superior court.

(vii) A decision/order cannot be reviewed under Section 22(3)(f).

(viii) 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.

(ix) 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."

5. For the reasons discussed in the foregoing paras, we do not find any merit in the RA. Accordingly, the RA is dismissed. MAs pending stand disposed of.

(A.K.Bishoi)
Member (A)

(S.N.Terdal)
Member (J)

‘sk’

....