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CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH,
NEW DELHI.

R.A.No.170/95

in

"NEW DELHI, 20.7.95"

O.A.No.2026/94.

HON'BLE MR. S.R.ADIGE, MEMBER (A).

HON'BLE MRS. LAKSHMI SWAMINATHAN, MEMBER (J).

Shri M.S.Bhatnagar,
1304, Gulabi Bagh,
Delhi.

.....Applicant.

Versus

1. Commissioner Food & Supplies,
Govt. of NCT of Delhi,
Delhi.

2. Chief Secretary,
Govt. of NCT of Delhi
5- Sham Nath Marg,
Delhi.

.....Respondents.

ORDER (BY CIRCULATION)

By Hon'ble Mr. S.R.ADIGE, Member (A).

This is a review petition bearing No.170/95 filed by Shri M.S.Bhatnagar for review of the judgment dated 12.5.95 in O.A. No.2026/94 Shri M.S.Bhatnagar Vs. Union of India & others. In that O.A., the applicant had prayed for quashing of charge memo dated 29.7.94 (Annexure-A), on the basis of which a departmental proceedings had been initiated against the applicant.

2. Upon a perusal of the grounds, taken by the applicant, we had held that none of them were such which could not be raised before the Disciplinary Authority itself and if any grievance survived thereafter before the appellate authority, prior to approaching the Tribunal. We had noted that the Hon'ble Supreme Court had deprecated the practices

of Courts/ Tribunals intervening in departmental proceedings at interlocutory stages without allowing the applicants to exhaust in the first instance, the remedies already available to them. Thus, without adjudicating upon the merits of the grounds taken by the applicant, we declined to interfere with the disciplinary proceedings at this stage, but had observed that as the applicant was a retired Govt. employee, the respondents should take in hand and conclude the departmental proceedings with the utmost expedition and if after exhausting the available remedies, any grievance still survived, it ~~would~~ be open to the applicant to agitate the matter a-fresh in accordance with law.

3. Under Order 47 Rule 1 CPC, a decision/judgment/ order can be reviewed only if:

- i) it suffers from an error apparent on the face of the record;
- ii) new material or evidence is discovered which was not within the knowledge of the parties or could not be produced by that party at the time the judgment was made, despite due diligence; or
- iii) for any sufficient reason construed to mean analogous reasons.

4. In the R.A. it has been alleged that the impugned judgment contained errors apparent on the face of record and on that basis the judgment warrants review. A perusal of R.A., however, makes it clear that in the guise of so-called errors, what the applicant is actually seeking to do, is to file an appeal against the impugned judgment. This is not permissible.

5. In Thungabhadra Industries Ltd. Vs. The Govt. of Andhra Pradesh- AIR 1964 SC 1372, the Hon'ble Supreme Court have held that " a review is by no means an appeal in disguise."

6. Similarly in Chandra Kanta & another Vs. Sheik Habib- AIR 1975 SC 1500 , their Lordships of the Hon'ble Supreme Court have held 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 mistake of inconsequential import are obviously insufficient."

7. Further in A.T.Sharma Vs. A.P.Sharma & others- AIR 1979 SC 1047, their Lordships have held that:

" 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 proceeded 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 manner of errors committed by the Subordinate Court."

8. In the result, this R.A. is rejected.

Lakshmi Swaminathan
(LAKSHMI SWAMINATHAN)

MEMBER (J)

Anjali
(S.R. ADIGE)
MEMBER (A).