

Central Administrative Tribunal
Principal Bench

RA 161/97
in
O.A. 1349/93

New Delhi this the 22nd day of July, 1997

Hon'ble Shri S.R. Adige, Member(A).
Hon'ble Smt. Lakshmi Swaminathan, Member(J).

Krishan Kumar & Ors. ... Applicants.

By Advocate Shri G.D. Bhandari.

Versus

Union of India & Ors. ... Respondents.

ORDER (By circulation)

Hon'ble Smt. Lakshmi Swaminathan, Member(J).

RA 161/97 in OA. 1349/93 has been filed by the applicants under Section 22(3)(f) of the Administrative Tribunals Act, 1985 read with Rule 17 of the Central Administrative (Procedure) Rules, 1987 for review of the order dated 8.4.1997.

2. The applicants have submitted that the review application is fully covered within the provisions of Order 47 Rule 1 CPC as there are errors apparent on the face of the record. In order to substantiate their submissions, they have, in paragraphs 2 to 16, set out the facts, the position under the recruitment rules before and after amendment, the fact that they have fulfilled the eligibility conditions for promotion to AAO according to the recruitment rules, their previous arguments advanced before the Tribunal, the details of pleadings before the

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Tribunal and submitted that the Tribunal has committed grave legal errors in the impugned order dated 8.4.1997.

In para 16, the review applicants have submitted that the Tribunal after discussing the facts of the case and 'ruffing' to the arguments advanced by the counsel of the parties discussed the merit of the case in para 4, which, according to them, resulted in the legal error inadvertently committed by the Tribunal. Thereafter, a number of other so called errors have been referred to in the subsequent paragraphs while dealing with the recruitment rules, DPC and other relevant materials on records. They have also stated that certain rules which were on record have been wrongly considered. In view of these submissions, the applicants have submitted that the judgement/order dated 8.4.1997 should be recalled after giving the applicant's an opportunity to present their case through oral submissions.

3. From a careful persual of the review application, it is evident that none of the ingredients contained in the provisions of Order 47 Rule 1 CPC read with Rule 17 of the CAT (Procedure) Rules are present justifying review of the impugned order. In A.T. Sharma Vs. A.P. Sharma & Ors. (AIR 1979 SC 1047), the Supreme Court has held as follows:

"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

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produced 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".

(See also the observations of the Supreme Court in Meera Bhanja Vs. Smt. N.K. Choudhary, (JT 1994 (7) SC 536)

4, It is clear from the review application that the applicants were aware of the limited scope and ambit of Order 47 Rule 1 CPC under which alone the review of an order is permissible under law. Therefore, somehow to bring the application within the four corners of this provision, the review applicants ~~have~~ in lengthy arguments retracing the same arguments advanced during the time the O.A. was heard, have alleged that we have committed 'errors' in our judgement. The judgement is a detailed one and gives reasons for ^{the} conclusions arrived, based on the pleadings and other materials on record and are not errors, much less apparent on the face of the record, under which alone ^{the} review application can be allowed. In the garb of the review application, the applicants are actually seeking to reargue the case as if it was an appeal against the judgement which cannot, therefore, be allowed. If the

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applicants are aggrieved that the decision is wrong, the remedy does not lie by way of review application as laid down by the Supreme Court in the aforesaid decisions.

5. For the reasons given above, the review application is dismissed.

Lakshmi Swaminathan

(Smt. Lakshmi Swaminathan)

Member(J)

S.R. Adige

(S.R. Adige)

Member(A)

'SRD'