

(17)

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH: NEW DELHI

DATED THIS

2/6/92

CORAM

Hon'ble Shri Justice Ram Pal Singh

.. Vice-Chairman(J

Hon'ble Shri P.S. Habeeb Mohamed

.. Member (A)

REVIEW APPLICATION NO.97/1992

( O.A. No.1088/86 )

S.K. Mukherjee,  
Retd. Fire Advisor to  
Government of India,  
Ministry of Home Affairs,  
GH-13/1089, Paschim Vihar,  
New Delhi -110 041

.. Applicant

Vs.

Union of India (through)  
The Secretary,  
Ministry of Home Affairs,  
Central Secretariat,  
North Block,  
New Delhi.

.. Respondent

This application having come up for  
orders before this Tribunal today, Hon'ble  
Shri P.S. Habeeb Mohamed, Member (A), made the  
following:

O R D E R

This is a Review Application filed by  
Shri S.K. Mukherjee. The applicant is the  
original applicant in O.A. No.1088/86 on which  
the Judgement<sup>was</sup> delivered by the ~~present~~<sup>present</sup> Division  
Bench on 16-1-1992. The review is sought on the

...2/-

grounds -

1. that the applicant was attending the work normally done by the Fire Advisor and
2. He is entitled to arrears of pay for the period of normal promotion in the light of the judgement of Hon'ble Supreme Court in Jankireman's case.

The law with regard to reviewing a judgement is well settled. A judgement can be reviewed on the grounds of -

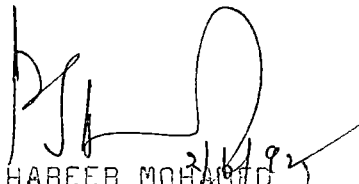
- 1) Discovery of new or important matter or evidence which after the exercise of due diligence was not within the knowledge of a party;
- 2) Some mistake or error apparent from the face of the record;
- 3) Any other sufficient reason.

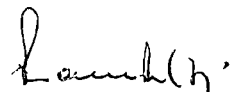
None of the ingredients for a review petition for a review is present in the case nor ~~it~~ does the review application disclose any such material. The Hon'ble Supreme Court Judgement in Janakiraman's case does not deal with a case of the present type. As the Hon'ble Supreme Court has said, in the case of Aribam Tuleshwar Sharma vs. Aribam Pishak Sharma and Others ( 4 SCC 389, 1979) a review cannot be resorted to ordinarily. Their Lordships held as follows:-

"The Judicial Commissioner gave two reasons for reviewing his predecessor's order. The first was that his predecessor had overlooked two important documents Exs. A/1 and A/3 which showed that the respondents were in possession of the sites even in the year 1948-49 and that the grants must have been made even by then. The second was that there was a patent illegality in permitting the appellant to question, in a single writ petition, settlement made in favour of different respondents. We are afraid that neither of the reasons mentioned by the learned Judicial Commissioner constitutes a ground for review. It is true as observed by this Court in Shivdeo Singh Vs. State of Punjab (AIR 1963 SC 1909) there is nothing in Article 226 of the Constitution to preclude a High Court from exercising the power of review which inheres in every court of plenary jurisdiction to prevent miscarriage of justice or to correct grave and palpable errors committed by it. But, there are definitive limits to the exercise of the power of review. 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 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 powers which may enable an appellate Court to correct all manner of errors committed by the subordinate Court."

In the circumstances though we condone the delay in filing of <sup>R.</sup> R.A. there are no materials for allowing this Review Application which is accordingly rejected by circulation.

  
( P.S. HABEEB MOHAMMED )  
Member (A)

  
( RAM PAL SINGH )  
Vice-Chairman (J)