CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH NEW DELHI.

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DATE OF DECISION: 2.9.1988.

R.A. No. 108/88 in
REGN. NO. O.A. 885/87.

Shri I.D. Garg ... Applicant

Vs.

Union of India & Ors. ... Respondents.

CORAM:

Hon'ble Mr. Birbal Nath, Administrative Member.

For the applicant: Shri G.K. Aggarwal, counsel.

This is Review Application in regard to the judgment delivered by this Tribunal on 8.8.1988. The question involved in this case was that the Director-General, Archaeological Survey of India (A.S.I.) had issued instructions that all adverse remarks which had not been communicated for a period of six months or more would be deemed to have been expunged. This order was issued on 6.5.1985. This order was cancelled vide order No. 9-1-/85-CR-Pig. dated 17.1.1987. When the matter was heard, it was the case of the applicant that the letter of 17.1.1987 could not be issued and the respondents were bound by the instructions of 6.5.1985. The learned counsel for the respondents had argued that the original instruc ions of 6.5.1985 were without authority and, therefore, they were not binding on the respondents.

2. In this R.A., the applicant has challenged the Tribunal's judgment on the ground, inter alia, that the judgment says policy instructions could be issued only by the Department of Personnel with the approval of the Ministry of Home Affairs. The learned counsel for the applicant has argued that this part of the judgment is without any material on record. However, in para. 4 of the judgment, it is clearly stated that this is based on the argument addressed by the learned counsel for the respondents that the instructions of 6.5.1985 were issued by the Director-General, ASI without authority. It is further stated in the same paragraph that policy instructions are issued by the Department of Personnel, with the approval of the MHA and not otherwise. This Tribunal had accepted this part of the argument of the learned counsel for the respondents. It is the prayer of the applicant's counsel that this plea of the respondents should not have been accepted without production of any policy letter or an affidavit from them. There are two aspects to this situation. Firstly, the issue of policy letter being produced by the respondents was not raised during the course of arguments. Secondly, for certain self-evident facts, affidavits are not to be sworn. For instance, if it is argued during the course of arguments that the seat of the Government of India is in New Delhi, an affidavit is not required to be sworn in to enable the court to accept this fact. His argument that in the absence of any pleadings or material before the Tribunal, the Tribunal had no jurisdiction to hear the counsel for the respondents regarding

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competence of the Director-General, ASI to issue the administration instructions has already been dealt with in the course of judgment.

3. The next argument of the learned counsel forthe applicant is that the Tribunal has misread the Supreme Court judgments in Jagmal Singh Yadav v. M.Ramayya & Ofs.[1] as well as in Assistant Commissioner of Commercial Taxes (Asst.) Dharwar and others v. Dharmendra Trading Co. etc.[2] and also in State of West Bengal and others Vs. Ashit Nath Das and others[3] According to him, by misreading these judgments of the Supreme Court, there has been violation of the provisions of Article 141 of the Constitution. This Tribunal like any other court is bound by the law as laid down by the Supreme Court. This requires no elaborate argument or ~~clarification~~ reiteration. However, every court has to apply the ratio of the judgments to the facts of each case. The Tribunal applied the ratio of these judgments in the manner as given in the judgment delivered on 8.8.1988.

4. In the R.A., the applicant has urged that the respondents had not produced the records and the Tribunal has failed to draw an adverse inference. This is factually not so. In the judgment, in last para., the obduracy of the resp ndents to frustrate and impede the course of justice by not producing the relevant files has been described as 'senseless and beyond reason' and ruling has been applied to the applicant.

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5. Review of a judgment lies under clause (f) of Section 22 of the Administrative Tribunals Act. A review is considered in terms of Order 47 Rule 4 CPC. It does not provide for review in the case of error of law and the counsel for the applicant has been arguing that the judgment under review suffers from errors of law. Clause (c) of this order provides that a review will lie when there has been mistake or error apparent on the face of the record. The Review Application of the applicant does not ~~cover~~ fall under the remaining two provisions i.e. the discovery of any fresh material or evidence or for any other sufficient reason. Error in interpreting judgments of the Hon'ble Supreme Court or any other court is not provided as a ground for review.

In view of the foregoing facts, this R.A. is found to be without merit and is dismissed accordingly.

2/9/88

(BIRBAL NATH)
Member.
2.9.1988.