

Central Administrative Tribunal
Principal Bench

(A8)

RA 145/99
in
OA 1209/87

New Delhi this the 19th day of April, 2002

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

1. Union of India through
The Secretary to the Govt.
of India, Ministry of Agriculture,
New Delhi.
2. Delhi Milk Scheme,
West Patel Nagar,
New Delhi through its Chairman.
3. Deputy General Manager (Admn.),
Delhi Milk Scheme,
West Patel Nagar,
New Delhi.Review Applicants.

(By Advocate Shri S.M. Arif)

Versus

R.P. Tiwari,
S/o Shri Ram Sagar Tiwari,
R/o Type B-112 (Near Satyawati College),
Sector IV, Timarpur,
Delhi-7.Review Respondent.

(By Advocate Shri G.D. Gupta, senior counsel with Shri
Pankaj Kumar)

O R D E R (ORAL)

Hon'ble Smt. Lakshmi Swaminathan, Vice-Chairman (J).

MA 1247/2001 has been disposed of by Tribunal's
order dated 7.1.2002.

2. MA 849/2000 has been filed by the
respondents/applicants in Review Application seeking
restoration of the Review Application which was dismissed
in default and non-prosecution by Tribunal's order dated

(8)

(2)

(A)

24.3.2000. We have heard learned counsel for the parties.

That MA is not opposed. Accordingly, MA 849/2000 is allowed and RA 145/99 is restored to file along with MA 1813/1999.

3. RA 145/99 has been filed by the respondents in OA 1209/87, praying for review and recall of Tribunal's order dated 19.4.1999 in OA 1209/1987. MA 1813/1999 has been filed along with the review application seeking extension of time.

4. In the light of the submissions made by the respondents/applicants in MA 1813/1999, as the period of four months from 19.8.1999 has long since elapsed, that MA has become infructuous and it is accordingly disposed of.

5. We have heard Shri S.M. Arif, learned counsel for review applicants and Shri G.D. Gupta, learned senior counsel for respondent in RA 145/99. The main contention of learned counsel for the review applicants is that the reasoning in Tribunal's order dated 19.4.1999 is wrong in the light of the judgement of the Hon'ble Supreme Court in **State of Assam Vs. M.K. Dass & Ors.** (AIR 1970 SC 1255). However, it is not disputed that the judgement in M.K. Dass's case (supra) was never brought to the notice of the Tribunal before the order dated 19.4.1999 was passed. Further, we agree with the submissions made by Shri G.D. Gupta, learned senior counsel, that the judgement of the

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Hon'ble Supreme Court in M.K. Dass's case (supra) is based on certain other rules and not on the provisions of the CCS (CCA) Rules, 1965. Learned senior counsel has also relied on the judgement of the Supreme Court in Dokka Samuel Vs. Dr. Jacob Lazarus Chelly (1997 (4) SCC 478), wherein it has been held that 'Omission on the part of the counsel to cite an authority of law does not amount to error apparent on the face of the record so as to constitute ground for reviewing prior judgement. In that case, the question was whether the Hon'ble Karnataka High Court was justified in reviewing the earlier order and reversing the finding recorded by the appellate court. It has also been noted that subsequently the High Court has reviewed the judgement and reconsidered the matter holding that relevant precedents were not cited. The Hon'ble Supreme Court has allowed the appeal and set aside the High Court order and upheld the decree of the appellate court, as confirmed by the High Court in the first instance. In another judgement of the Hon'ble Supreme Court in Parson Devi & Ors. Vs. Sumitri Devi & Ors. (JT 1997 (8) SC 480) following a catena of judgements of the Supreme Court in Thungabhadra Industries Ltd. Vs. The Government of Andhra Pradesh (AIR 1964 SC 1312), Mrs. Meera Bhanja Vs. Nirmala Kumari Choudhary (AIR 1995 SC 455) and A.T. Sharma Vs. A.P. Sharma & Ors. (AIR 1979 SC 1047), the Apex Court has held that in exercise of the jurisdiction under Order 47 Rule 1 CPC it is not permissible for an erroneous decision to be "reheard and

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(51)

corrected". It is also settled law that review jurisdiction cannot be used as an appellate jurisdiction.

6. In the facts and circumstances of the case, as brought up by the review applicants in review application, we are satisfied that no error of law apparent on the face of record and other sufficient reasons ^{exist} as provided under Order 47, Rule 1, CPC, read with Section 22(3)(f) of the Administrative Tribunals Act, 1985 are present. Review Application is accordingly rejected.

Lakshmi Swaminathan

(Smt. Lakshmi Swaminathan)
Vice Chairman (J)

S.R. Adige

(S.R. Adige)
Vice Chairman (A)

'SRD'