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CENTRAL ADMINISTRATIVE TRIBUNAL

PRINCIPAL BENCH, NEW DELHI

THIS THE 2nd DAY OF July, 1996

HON. MR. JUSTICE B.C. SAKSENA, V.C(J), All India

HON. MR. R.K. AHOOJA, MEMBER(A)

Review petition No. 62 of 1996

In

Original Application No. 2615 of 1991

Vinod Kumar Aggarwal
S/o Shri B.S. Aggarwal
780, Vivekanand Nagar,
Ghaziabad.

Applicant

Versus

1. The General Manager
Northern Railway Baroda House
New Delhi
2. Divisional Railway Manager
Northern Railway New Delhi

Respondents

ORDER (By Circulation)

JUSTICE B.C. SAKSENA, V.C.

This review application has come up for orders by circulation. I have perused the review application and the order passed by us. In the review application a few factual errors are indicated to have crept in the judgment. One such factual error indicated is that though in para 4 of our order we had stated that no rejoinder affidavit had been filed by the applicant. It has been indicated that the rejoinder affidavit was filed on 6.2.92 under filing no. 1416/92 and as such the rejoinder affidavit must be on record. Since in our order we had clearly stated that no rejoinder affidavit had been filed that must be the correct position on the record. May be the rejoinder had been filed it could not be placed on record but this

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circumstance alone is not sufficient to call for a review of the order since in the review petition it has not been shown what material facts averred to in the said rejoinder affidavit would have effected the conclusions in our order.

2. The second factual error which is stated to have occurred is that we have omitted to take into consideration the Notification dated 17.6.86 referred to in para 5.7 of the O.A. We have passed the order on the basis of the submissions made at the bar when the OA had been taken up for hearing. If at the time² hearing our attention was not invited to the said notification it cannot be said that any factual error had crept in. The said notification was only for guidance of the Administrative authorities. The validity of the impugned order has been judged on the basis of the statutory provisions and requirements of law. Thus no error apparent on the face of the record can be said to have occurred.

3. The third factual error shown to have occurred is that we have not considered the Supreme Court decision reported in AIR 1970 SC 1302 Mahabir Prasad Vs. State of Andhra Pradesh. This decision had neither been cited before us nor arguments made on the said basis.

However, the question whether the order of punishment which is non-speaking called for interference has been considered in detail and the decision rendered in OA 2590/91 Ramdhan Vs. Union of India and ors which had been cited, had been analysed and we have considered the said decision.

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4. A review petition is maintainable only if any of the circumstances indicated in Order 47 Rule 1 CPC can be shown to exist. The Hon'ble supreme Court in a case of Chandrakanta Vs. C.S. Habib AIR 1975 SC 1500 has laid down the law that the review application cannot be utilised for traversing the same ground. The review of a judgment is a serious matter. The resort to review of the judgment should only be made when there is an apparent mistake or grave error which has crept by judicial fallibility. Party is not entitled to seek a review of the judgment delivered by the court merely for the purpose of rehearing and fresh decision of the case. The view taken by us while deciding the OA and our conclusions have been assailed as erroneous, that by itself cannot be a ground for review.

5. As was observed by the Hon'ble Supreme Court in Aribam Tuleshwar Sharma Vs. Aribam Pishak Sharma reported in AIR 1979 Supreme Court 1047 that there are definitive limits to the exercise of the power of review. It was observed 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 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.

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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."

6. The review application lacks merit and is accordingly dismissed.

Reedham
MEMBER(A)

Babalane
VICE CHAIRMAN(J), All d.

Dated: *July 2, 1996*

Uv/