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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

RA No. 196 of 1991
in O.A. No. 1330 of 1991

12-11-91

Harmesh Chandra

Applicant

Union of India

vs.

Respondents

By this R.A. the applicant prays for reviewing the judgment passed in O.A. No 1330/91 on 23.9.91. The applicant also contends that a copy of this judgment was never sent by the Registry of this Tribunal, either to him or to his counsel and he came to know about it only from the order dated 10.10.91, issued by the office of the Respondents upon which he acquired a certified copy. Alongwith this R.A. the applicant has also filed M.P. No 3479/91 praying therein to stay the operation of the judgment on 23.9.91 in O.A. No. 1330/91 and to restore ad-interim order of stay of his transfer.

2. The applicant contends in the R.A:-

1. MP in OA rejected on the ground of non-incorporation of facts in O.A. by an amendment is an error apparent on the face of the record.
2. The O.A. was not heard on merits but only on admission, interim relief and M.P.
3. The judgment was delivered on 23.9.91, without giving opportunity to the applicant and his counsel of being heard on merits of the O.A.

3. It is settled that the provisions relating to power of review constitute an exception to the general rule that when once a judgment is signed and pronounced, it cannot afterwards be altered or added to and hence a right of review is exercisable only where the circumstances are distinctly covered by the statutory exceptions. The power to review is a restricted power which authorises the court or the Tribunal which passed the judgment sought to be reviewed to look over through the judgment not in order to substitute a fresh or second

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judgment but in order to correct it or improve it because the same material which it sought to have considered has escaped its consideration or failed to be placed before it for any other reason. The Tribunal cannot under cover of it arrogate to itself the power to decide the case once again because it now feels that assessment done formerly was faulty or even incorrect.

5. In view of this settled position of law, we now proceed to consider the contentions of the applicant in the R.A. M.P. No. 1864/91 of the O.A. contained two prayers. Both these prayers were considered and rejected in para 2 of the judgment in O.A. The reasons therein for rejection were elaborate and do not deserve reconsideration or second thought.

5. Grounds No. 2 and 3 in R.A. shall be dealt together. Matters like transfers, post retirement benefits, compassionate appointments, ejection, rent etc. from Government quarters, and other such small matters which take less time, are decided generally by the Tribunal at the admission stage itself after notice to the Respondents. As the subject matter in O.A. No 1330/91 was that of transfer, it was finally decided at the admission stage itself, after the pleadings of the parties were complete. Shri B.B. Raval, learned counsel for the applicant, and Shri P.P. Khurana, learned counsel for the respondents, were heard on admission, interim relief and M.P. No. 1864/91 on 28.8.91. Both the counsel addressed the Bench on all the aspects of the case and the orders were reserved. Hearing on admission was on the merits of the case. To contend in R.A., that the applicant was not heard on merits of the O.A. does not, therefore, appear to be correct. In para 2 of the judgment dated 23.3.91, it is clearly mentioned that on 28.8.91 the matter was finally heard. Thus before the judgment was reserved, the counsel for the applicant was heard on the merits of the O.A. and the right of being heard was not infringed. This R.A. has no merit and the judgment dated 23.9.91 needs no review.

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7. The M.P. to R.A. (No. 3479/91) on which Shri B.B. Raval learned counsel for the applicant, was heard on 6.11.91, contains the prayer to stay the operation of the judgment dated 23.9.91 and restore the ad interim order of stay of his transfer from Delhi to Bombay. This M.P. is devoid of any merit. The entire merit of the impugned order of transfer was evaluated and considered in the judgment dated 23.9.91.

8. Consequently, this R.A. and the M.P. No. 3479/91 are dismissed.

8.11.1991
(RAM PAL SINGH)
VICE-CHAIRMAN (J)

Hon'ble Shri P.C. Jain, Member (A)

I agree.

22/11/91
(P.C. Jain)
Member (A)