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**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH**

RA No. 102/2005

in

OA 2082/2004

New Delhi this the 9th day of May, 2005

Hon'ble Mrs. Meera Chhibber, Member (J)

Hon'ble Mr. S.K. Malhotra, Member (A)

Vijay Kumar Kaul and Ors.

....Review Applicants

VERSUS

Union of India and Others

....Respondents

ORDER (IN CIRCULATION)

This Review Application has been filed against the order dated 10.3.2005 passed in O.A. 2082/2004, on the ground that after the judgment was reserved, counsel for applicant was given directions to produce the documents and when he came to the chamber, his documents were not accepted. He has also referred to the judgment dated 29.11.2004 in OA 1097/2004 which was given in the case of **Jullous and Anr Vs. UOI and Ors.** to state that the judgment has not been followed in the present OA. Applicants have also narrated new facts which were never stated in the Original Application to show that some injustice has been done to them, therefore, the order needs to be re-considered.

2. We have perused the RA carefully and find that applicant has tried to make out absolutely a new case in the RA than what he had made out in the original application even though these facts were in their knowledge. They have themselves stated in para 2 of RA that in OA their only grievance was that they were not granted benefit of judgment. Law is well settled that new facts cannot be raised in the Review Application as review cannot be filed to enlarge the scope of the original application or to re-argue the case. Whatever points were

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raised by the applicant in original application have already been considered in the judgment in detail and we have already expressed our views in the judgment and have explained why applicants cannot get the benefit of judgment given by Punjab and Haryana High Court. We cannot sit in appeal over our own orders.

3. The averment made by the applicant in RA to the effect that liberty was given to the counsel for applicant to file some documents orally is absolutely wrong. From the perusal of the order sheet, it is seen that no liberty was given to the counsel for the applicant to file any documents nor any such oral liberty could have been given, as stated in the RA because case has to be decided on the basis of pleadings and arguments advanced in Court. His request for handing over certain documents in chamber was, therefore, rightly rejected.

4. Even otherwise, the law is well settled by Hon'ble Supreme Court that the scope of review is very limited and it is not permissible for a forum to act as an appellate authority in respect of the original order by afresh rehearing to facilitate change of opinion on merit (2004 (2) ATJ 190) **Union of India Vs. Tarit Ranjan Das**. Similarly in **Ajit Kumar Rath Vs. State of Orissa and Ors** (2000 SCC (L&S) 192. It has been held as follows:

"..... the power of review available to the Tribunal is the same as has been given to a court under Section 114 read with Order 47 CPC. The power is not absolute and is hedged in by the restrictions indicated in Order 47. The power can be exercised on the application of a person on the discovery of new and important matter or evidence which, after the exercise of due diligence, was not within his knowledge or could not be produced by him at the time when the order was made. The power can also be exercised on account of some mistake or error apparent on the face of the record or for any other sufficient reason. A review cannot be claimed or asked for merely for a fresh hearing or arguments or correction of an erroneous view taken earlier, that is to say, the power of review can be exercised only for correction of a patent error of law or fact which stares in the face without any elaborate argument being needed for establishing it. It may be pointed out that the

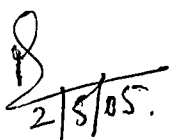


expression "any other sufficient reason" used in Order 47 Rule 1 means a reason sufficiently analogous to those specified in the rule".

In AIR 2002 SC 2537 In the case of **Subhash Vs. State of Maharashtra & Anr.**, Hon'ble Supreme Court held that unless the error is plain and apparent, Tribunal cannot review its order and in **Meera Bhanja Vs. Nirmala Kumari Choudhary** (AIR 1995 SC 455), it was held that "Error apparent on face of record" means an error which strikes one on mere looking at record and would not require any long drawn process of reasoning on points where there may conceivably be two opinions. It was further held if review court reappreciates entire evidence and reverses the findings, the review court exceeds its jurisdiction and order is liable to be set aside on this ground.

3. Since our order has been passed on the basis of pleadings and judgments already given in favour of applicants earlier, the present OA was definitely not even maintainable otherwise. Kindly refer to 1997 SCC (L&S) 135 **Commissioner of Income Tax, Bombay Vs. T.P. Kumaran**, therefore, we do not find any error on facts or on law, in the judgment. The Review Application is accordingly rejected in circulation.


(S.K. Malhotra)
Member (A)


2/5/05.
(Mrs. Meera Chhibber)
Member (J)

'SRD'