Central Administrative Tribunal
Principal Bench : New Delhi

RA No.118/2006
IN
OA No.2308/2004
MA No.39/2006

New Delhi this 18th day of August, 2006

Hon'ble Mr. Justice B. Panigrahi, Chairman
Hon'ble Mr. N.D. Dayal, Member (A)

C.R.C.S.A. & Ors. ...Applicants

Versus

Union of India & Others ...Respondents

ORDER (BY CIRCULATION)

By Hon'ble Shri N.D. Dayal, Member (A)

This RA has been filed by the applicants in OA 2308/2004 and MA 39/2006 which was decided on 31.5.2006 with the following directions:

> "In view of the above discussion, we are not inclined to give any directions upon the higher pay scale that the applicants are seeking in this OA. However, we do feel that in view of the specific recommendations of the Expert Committee on Modernization and Upgradation of Central Revenues Laboratories contained in their report of August 1994 with regard to merger and upgradation of the pay scales of the applicants the matter deserves re-consideration at the level of the competent authority in Government for referring the proposal suitably to the 6th Central Pay Commission for consideration as and when the same is notified keeping in view the developments on the subject since implementation of the recommendations of the 5th CPC. The application is disposed of accordingly. No costs."

2. In the RA, the prayer of the applicants is under:

> "i) allowing the Review Application; &
> ii) to direct the respondents to grant similar benefits of the revised pay scale as recommended by the 5th CPC followed by Govt. at their own taking action to revise the pay scales of the similarly placed employees, as discussed in the above OA & Rejoinder &
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> or pass such other further orders / or orders as may deem be fit and proper under the facts and circumstances of the case in the interest of justice."

3. It is submitted that during the course of arguments, the applicants had conceded that they have been discriminated against in the matter of fixation of their pay scales and based their case on inter-departmental disparity relying upon various citations in support thereof. It is mentioned that the applicants had

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contested the two judgements upon which respondents had relied in support of their case but the Court had inadvertently not covered the same. Prima facie it would appear that such judgements, if not discussed, may affect the case of the respondents. The applicants have further pointed out various other arguments and points in the pleadings and in fact it is felt that the submissions in the RA are more an attempt to re-argue the matter on merits by relying upon the pleadings in the OA as well as various judgements not only in support of the prayer in the OA but also with regard to review.

4. In our view, there appears to be no apparent error or mistake in the order dated 31.5.2006. Even if the judgement is erroneous, it would not be a subject matter of review and any party aggrieved by such order, would be at liberty to approach the appropriate forum for redressal of their grievance. We rely upon the Judgment of the Hon'ble Supreme Court in the case of **Smt. Meera Bhanja** v. **Smt. Nirmala Kumari Choudhury,** AIR 1995 SC 455. The Supreme Court held as under:

> "8. It is well settled that the review proceedings are not by way of an appeal and have to be strictly confined to the scope and ambit of Order 47, Rule 1, C.P.C. In connection with the limitation of the powers of the Court under Order 47, Rule 1, while dealing with similar jurisdiction available to the High Court while seeking to review the orders under Article 226 of the Constitution of India, this Court, in the case of **Aribam Tuleshwar Sharma** v. **Aribam Pishak Sharma**, AIR 1979 SC 1047, speaking through Chinnappa Reddy, J., has made the following pertinent observations (para 3):
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> > "It is true there is nothing in Article 226 of the Constitution to preclude the High Court from exercising the power of review which inheres in every Court of plenary jurisdiction to prevent miscarriage of justice or to correct grave and palpable errors committed by it. But, there are definitive limits to the exercise of the power of review. The power of review may be exercised on the discovery of new and important matter or evidence which, after the exercise of the 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. 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."

Now it is also to be kept in view that in the impugned judgment, the Division Bench of the High Court has clearly observed that they were entertaining the review petition only on the ground of error apparent on the face of the record and not on any other ground. So far as that aspect is concerned, it has to be kept in view that an error apparent on the face of record must be such an error which must strike one on mere looking at the record and would not require any long drawn process of reasoning on points where there may conceivably be two opinions. We may usefully refer to the observations of this Court in the case of **Satyanarayan Laxminarayan Hegde** v. **Mallikarjun Bhavanappa Turumale,** AIR 1960 SC 137, wherein, **K.C.Das Gupta, J.,** speaking for the Court has made the following observations in connection with an error apparent on the face of the record:

> "An error which has to be established by a long drawn process of reasoning on points where there may conceivably be two opinions can hardly be said to be an error apparent on the face of the record. Where an alleged error is far from self-evident and if it can be established, it has to be established, by lengthy and complicated arguments, such an error cannot be cured by a writ of certiorari according to the rule governing the powers of the superior Court to issue such a writ.""

5. The scope of review is very limited under Section 22 (3) (f) of the Administrative Tribunals Act, 1985. In the aforesaid situation we are not persuaded that there are any grounds made out so as to warrant interference by invoking the review jurisdiction. RA is therefore dismissed but without any order as to costs.

(N.D. Dayal)
Member (A)

(B. Panigrahi)
Chairman

/kdr/