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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI.

R.A. No.233 OF 2005
IN
O.A. No.1257 OF 2004

New Delhi, this the 14th day of November, 2005

Hon'ble Mr. Mukesh Kumar Gupta, Member (J)

Smt. UrmilaApplicant.

Versus

Union of India : Through

The General Manager,
Northern Railway,
New Delhi and othersRespondents

ORDER (IN CIRCULATION)

By the present Review Application, applicant seeks to recall and review of an order dated 26.9.2005 dismissing the OA 1257/2004.

2. The present RA has been taken up in circulation in terms of provision of Rule 17 (3) of CAT (Procedure) Rules, 1987.

3. I have carefully perused the Review Application vis-à-vis, the order, which is sought to be recalled and reviewed.

4. The grounds urged in support of the present Review Application are that this Tribunal committed an error on the face of record in not following the judgement of the Hon'ble Supreme Court in the case of ***Ram Kumar and others v. Union of India & others***, 1996 (1) SLJ (SC) 116, which is a judgement rendered by a Bench of Hon'ble three Judges which still hold the field in comparison to judgement in the case of ***Union of India and others v. Rabia Kikaner etc.***, JT 1997 (6) SC 95 which was rendered by a Bench of Hon'ble two Judges and secondly, that the reliance placed by this Tribunal

on the Full Bench decision of the Tribunal in the case of *Gita Rani Santra v. Union of India & others*, Administrative Tribunal Full Bench Judgements 1997-2001 page 295 is 'erroneous' because the judgement of the Hon'ble Supreme Court in *Ram Kumar's* case (supra) was not noticed therein and, therefore, the said Full Bench judgement is '*per incurium* and not applicable in the facts and on the face of subsequent judgement of the Hon'ble Supreme Court in *Ram Kumar's* case (supra) as well as Division Bench judgement of this Tribunal in the case of *Smt. Vallam Badia v. Union of India & others*, 2003 (2) SLJ (CAT) (Ahmedabad) 271.

5. The Scope and ambit of Order 47 Rule 1 of CPC is limited as held by the Hon'ble Apex Court in *Meera Bhanja Vs. Nirmala Kumari Choudhury*, [(1995) 1 SCC 170], on the said subject, which reads as under:-

"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.

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."

(emphasis supplied.)

6. The ratio laid down hereinabove aptly applies to the facts of the present case. The applicant, basically, in the present Review Application, has challenged the findings recorded by this Tribunal in

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its order dated 26.9.2005 and seeks to re-argue the entire matter by contending that there appears to be an error apparent on the face of the record, which contention, in my respectful view, is unjustifiable, unwarranted and untenable.

7. As far as judgement rendered by the Hon'ble Supreme Court in *Ram Kumar's* case (supra) is concerned, a perusal of para 11 of the aforesaid order dated 26.9.2005 would show that the observations on which reliance were placed by the applicant were noticed under the said paragraph on complete aspect and the emphasis therein was upon the term "temporary employees", which were not the facts of the case in hand. Similarly, the applicant challenges the Full Bench judgement of this Tribunal, as noticed hereinabove, by stating that the same was erroneous and *per incurium* by placing reliance on judgements in paragraph (II).

8. I have carefully perused the said judgements and am of the considered view that the same are not applicable in the facts and circumstances of the present case, as under the grab of review, one cannot be allowed to re-argue the entire matter, particularly, when an error is not so apparent, as sought to be projected by the applicant.

9. In view of the above, I find no error apparent on the face of record. Accordingly, the present Review Applicant is dismissed.

10. I may also notice, at this stage, that under Rule 17 (5) of CAT (Procedure) Rules, 1987, the review application is mandatorily not to be entertained unless "it is supported by duly sworn affidavit". A perusal of the affidavit filed at page 14 of the present Review Application is neither dated nor duly sworn in, as required under the



aforesaid Rule. The date is blank. Merely because such an affidavit is filed through the counsel, it cannot be termed as duly sworn in or valid or authorized affidavit.

11. Accordingly, RA is dismissed.

Mukesh Kumar Gupta
(Mukesh Kumar Gupta)
Member (J)

/ravi/