

Central Administrative Tribunal
Principal Bench

RA 138/98
in
OA 2020/92



New Delhi this the 31 th day of July, 1998

Hon'ble Shri S.R. Adige, Vice Chairman(A).
Hon'ble Smt. Lakshmi Swaminathan, Member(J).

Lekh Raj Sharma,
76-A, IInd Extension,
Gandhinagar, Jammu-180004.

... Applicant.

Versus

1. Union of India,
Department of Personnel & Trainings,
through Shri V.S.R. Krishna,
Counsel,
CAT Bar Room,
New Delhi.

2. State of Jammu & Kashmir,
through counsel Shri Ashok Mathur,
A-13, DDA Flats,
Saket, New Delhi.

... Respondents.

O R D E R (By circulation)

Hon'ble Smt. Lakshmi Swaminathan, Member(J).

This is a Review Application (RA 138/98) filed by the applicant in O.A. 2020/92 praying for review of the DB judgement/order dated 27.4.1998.

2. We have carefully considered the grounds for review taken in the RA. The applicant has submitted that the Tribunal has erred by not dealing with certain issues and in arriving at conclusions which, according to him, are not justified and, therefore, he is aggrieved. He has also alleged that the facts of the case have not been fully appreciated, besides not following the law in the different cases decided by the Hon'ble Supreme Court cited by him. It is settled law that review proceedings are not by way of an appeal and have to be strictly confined to the scope and

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ambit of Order 47 Rule 1 CPC read with Section 22(3)(f) of the Administrative Tribunals Act, 1985 and Rule 17 of the CAT (Procedure) Rules, 1987. In Smt. Meera Bhanja Vs. Smt Nirmal Kumari Choudhury, (JT 1994(7) SC 536), the Supreme Court has held as follows:

" In our view the aforesaid approach of the Division Bench dealing with the review proceedings clearly shows that it has overstepped its jurisdiction under Order 47, Rule 1 CPC by merely styling the reasoning adopted by the earlier Division Bench as suffering from a patent error. It would not become a patent or error in view of the settled legal position indicated by us earlier. In substance, the Review Bench has reappreciated the entire evidence, sat almost as court of appeal and has reversed the findings reached by the earlier Division Bench. Even if the earlier Division Bench findings regarding C.S. Plot No. 74 were found to be erroneous, it would be no ground for reviewing the same, as that would be the function of an appellate court. Right or wrong, the earlier Division Bench judgement had become final so far as the High Court was concerned. It could not have been reviewed by reconsidering the entire evidence with a view to finding out the alleged apparent error for justifying the invocation of review powers. Only on that short ground, therefore, this appeal is required to be allowed".

3. The Court further referred the following observations of the earlier judgement in Satyanarayan Laxminarana Hegde & Ors. Vs. Mallikarjun Bhavanappa Tirumale (AIR 1960 SC 137) in connection with an error apparent on the face of the record as follows:

"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".

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See also the judgements of the Supreme Court in Thungabhadra Industries Ltd. Vs. Government of Andhra Pradesh (AIR 1964 SC 1372, Chandra Kanta Vs. Sheikh Habib (AIR 1975 SC 1500) and A.T. Sharma Vs. A.P. Sharma (AIR 1974 SC 1047). In A.T. Sharma's case (supra), the Supreme Court has observed as follows:

"The power of review may be exercised on the discovery of new and important matter or evidence ^{which} 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. 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".

4. The impugned judgement/order has been passed after hearing the applicant at length and it is a reasoned one. Having regard to the settled law on review, as seen from the aforesaid judgements of the Supreme Court, and the arguments/grounds advanced by the applicant in the RA, we are unable to agree that there are errors in the judgement which justify review of the impugned order. The so called "errors" are no errors at all but conclusions/findings reached by the Division Bench on the materials on record. A perusal of the Review Application shows that the applicant has tried to reargue the case to show that the impugned order should be reviewed. It is settled law that a Review Application cannot be treated as if it is an appeal. In the facts and circumstances of the case, therefore, the Review Application fails and it is accordingly dismissed.

Lakshmi Swaminathan
(Smt. Lakshmi Swaminathan)
Member(J)

S.R. Adige
(S.R. Adige)
Vice Chairman (A)

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