

Central Administrative Tribunal
Principal Bench

R.A.No.246/97
in
O.A.No.51/92

26

Hon'ble Dr. A.Vedavalli, Member(J)
Hon'ble Shri R.K.Ahooja, Member(A)

New Delhi, this the **4th** day of **November**, 1997

Ex. Constable Dalbir Singh No.2431/DAP
s/o Shri Jagdev Kumar Maan
R/o Vill & P.O. - Mehmood Pur
P.S. - Guhana
Distt. - Sonipat, Haryana.

... Review Applicant

Vs.

Commissioner of Police
Police Head Quarters, I.P.Estate
M.S.O.Building
New Delhi.

... Review Respondent

O R D E R (By Circulation)

The review petition is directed against the order of this Tribunal in OA No.51/92 delivered on 29.8.1997. The review petitioner/applicant was removed from service vide order dated 15.10.1990 following the Departmental Enquiry in which the main allegation was that an accused child who was under the custody of the applicant escaped due to his gross negligence and misconduct. An FIR No.37/1990 under Sections 223/224 IPC was also registered. After the case was heard, the OA was dismissed by the impugned order sought to be reviewed.

2. The petitioner submits that there is an error apparent on the face of the record. However, despite dilligent perusal of the review petition, we are unable to ascertain as to which is that particular error to which reference is made. The petitioner says that the Tribunal has mis-interpretted the facts and committed an error on the face of record. It did not appreciate the contention of the applicant which goes to the root of the application. Reference has been made to certain arguments advanced during the course of the hearing which according to the petitioner have not been dealt with at all or adequately in the

impugned order. These related in particular to not obtaining the sanction of the Additional Commissioner of Police at the time of departmental enquiry even when a criminal case had also been registered and non-compliance of the instructions of the Department that once a criminal case is pending trial, the orders in the departmental proceedings should not be passed. Essentially these points raised by the Petitioner relate not to an error but to a non-acceptance of the arguments advanced on behalf of the applicant. The review petition is largely a repetition of the same arguments which were advanced in the main OA itself. The review petitioner thus virtually seeks to reargue the matter and have another opportunity to convince the Tribunal of his case. As has been held by the Supreme Court in Chandra Kanta & Anr. Vs. Sheik Habib, AIR 1975 SC 1500 - a mere repetition of old and overruled arguments, a second trip over ineffectually covered ground cannot be allowed through a review petition. In our view when a review is sought on the ground that the conclusion of this Tribunal is erroneous, it is a matter which would fall under appellate jurisdiction and not in review jurisdiction.

3. We therefore find that the review application is misconstrued and is without any merit. It is accordingly dismissed.

R.K. Ahooja
(R.K. AHOOJA)
MEMBER(A)

A. Veda Valli
(DR. A. VEDAVALLI)
MEMBER(J)

/rao/