

CENTRAL ADMINISTRATIVE TRIBUNAL  
ALLAHABAD BENCH  
ALLAHABAD

Review Application No. 42 of 1998

In

Original Application No. 1809 of 1994

Allahabad this the 8<sup>th</sup> day of January 1999

Hon'ble Mr. S.K. Agrawal, Member (J)

Surendra Singh, son of Sri Nathu Ram, resident of Village and Post Bhagwanpura, Distt. Etah.

Applicant

By Advocate Sri G.C. Gehrana

Versus

1. Union of India, through the General Manager, North Eastern Railway, Gorakhpur.
2. Divisional Railway Manager, North Eastern Railway, Izatnagar, Bareilly.

Respondents

O R D E R (By Circulation)

By Hon'ble Mr. S.K. Agrawal, Member ( J )

By this review application, the applicant has made a prayer to review the order of this Tribunal dated 27.10.98 passed in Original Application No. 1809 of 1994 'Surendra Singh Vs. Union of India & Others.

2. I perused the averments made in this

review application and also perused the judgment of this Tribunal dated 27.10.98.

3. Section 22(3) of the Administrative Tribunal Act, 1985 confers on an Administrative Tribunal discharging its functions under the Act, the same powers as are vested in a Civil Court under the Code of Civil Procedure while trying a suit in respect inter-alia, of reviewing its decisions, section 22(3)(f) is as follows;

"Section 22(3)(f):

A Tribunal shall have, for the purpose of discharging its functions under this Act, the same powers as are vested in a civil court under the Code of Civil Procedure, 1908(5 of 1908), while trying a suit, in respect of the following matter, namely

(f) reviewing its decisions;

4. A Civil Court's power to review its own decisions under the Code of Civil Procedure is contained in Order 47 Rule 1, Order 47 Rule 1 provides as follows:

"Order 47 Rule 1:

Application for review of judgment:-

(1) Any person considering himself aggrieved:-

(a) by a decree or order from which an appeal is allowed, but from which no appeal has been preferred,

(b) by a decree or order from which no appeal is allowed, or

(c) by a decision on reference from a Court of Small Causes.

and who, from the discovery on 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 decree was passed or order made, or on account of some mistake or error apparent on the face of the record, or for any other sufficient reason, desires to obtain a review of the decree passed or order made against him, may apply for a review of judgment to the court which passed the decree or made the order."

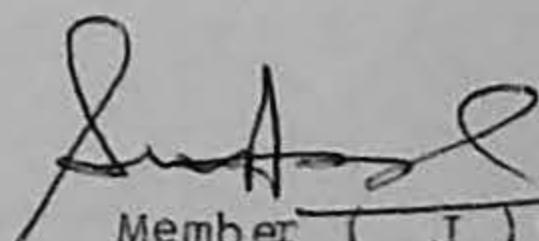
5. On the basis of the above preposition of law, it is clear that power of the review available to the Administrative Tribunal is similar to power given to civil court under Order 47 Rule 1 of Civil Procedure Code, therefore, any person who consider himself aggrieved by a decree or order from which an appeal is allowed but from which no appeal has been preferred, can apply for review under Order 47 Rule 1(1)(a) on the ground that there is an error apparent on the face of the record or from 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 decree or order was passed but it has now come to his knowledge.

6. It is now well settled that review lies either on discovery of new and important fact or evidence which after the exercise of due diligence was not within the knowledge of the applicant or could not be produced by him at the time when the order was made or where there is some mistake or error apparent on the face of it, in the judgment. The power of review should not be exercised on the ground that the decision is erroneous on merits. The power of review should not be confused with the appellate powers which may enable the appellate court to correct the error committed in all manners.

7. In the instant case, no doubt the prayer of the applicant regarding retiral benefits has not been discussed as it was also not emphasised at the time of hearing. However, on the perusal of pleadings it appears that the applicant is not only a legal heir of the deceased so as to claim the retiral benefits. The wife of the deceased and his daughters are also in the array of legal heirs. No objection from other legal heirs has been filed. No succession certificate was filed by the applicant so as to entitle him alone the retiral benefits after the death of the deceased. It is also evident that deceased was superannuated and thereafter died pending the disciplinary proceedings.

8. The claim of retiral benefits gives a recurring cause of action. It will be proper for the applicant to approach the respondents after obtaining 'No Objection' from other legal heirs of the deceased or after obtaining succession certificate as the case may be. If applicant approach the respondents by way of representation, it is expected that his prayer may be considered sympathitically <sup>and expeditiously</sup> as per rules by a speaking order.

9. With the above observations, I dismiss the review application.

  
Member (S) 8/1/99

/M.M./