

CENTRAL ADMINISTRATIVE TRIBUNAL

ALLAHABAD BENCH

THIS THE 9TH DAY OF JULY, 2001

Review Application No.16 of 2001

In

Original Application no.333 of 1995

CORAM:

HON.MR.JUSTICE R.R.K.TRIVEDI,V.C.

HON.MR.M.P.SINGH, MEMBER(A)

Prem Singh Rawat Applicant

versus

Union of India & Ors Respondents

O R D E R

I have considered the review application filed against the order dated 6.7.2000 passed in OA 333/95. the application was held not maintainable in view of the legal position prevailing on that date. The Full Bench case of 'Rambhar Singh Rathore's ~~case~~ (1997) 36 ATC 440(FB), was relied on. This review application has been filed on the basis of the judgement of hon'ble Supreme Court dated 4.1.2001 given in civil appeal nos 1039-1040 of 1999 in Union of India and Others Vs.Mohd. Aslam and others.

Hon'ble Supreme court in case of 'Ajit Kumar Rath Vs. State of Orissa and Others 2000 SCC(L&S) 192 considered the power of review conferred on the Tribunal u/s 22(3)(f) of Administrative Tribunals Act 1985 and held that the power of review available to the Administrative Tribunal is the same as has been given to a court u/s 114 read with Order 47 Rule 1 CPC. The power is not absolute and is hedged in by the restrictions indicated in Order 47. The relevant para 30 of the judgement is being reproduced below:-

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"The provisions extracted above indicate that the power of review available to the Tribunal is the same as has been given to a court under Section 114 read with Order 47 CPC. The power is not absolute and is hedged in by the restrictions indicated in Order 47. The power can be exercised on the application of a person on the discovery of new and important matter of 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 order was made. The power can also be exercised on account of some mistake or error apparent on the face of the record or for any other sufficient reason. A review cannot be claimed or asked for merely for a fresh hearing or arguments or correction of an erroneous view taken earlier, that is to say, the power of review can be exercised only for correction of a patent error of law or fact which stares in the face without any elaborate argument being needed for establishing it. It may be pointed out that the expression "any other sufficient reason" used in Order 47 Rule 1 means a reason sufficiently analogous to those specified in the rule."

Order 47 Rule 1 Explanation II clearly provides that a review cannot be made of a decision already given on the ground that the judgement on which the order is based, has been subsequently reversed or modified by a superior court. In the present case the Explanation II is being reproduced below:



:: 3 ::


Explanation-Ii

The fact that the decision on a question of the law on which the judgement of the court is based has been revoked or modified by the subsequent decision or a superior court in any other case shall not be a ground for the review of such judgement."

From the legal position indicated above it is clear that the judgement of this Tribunal was given on 6.7.2000. The order is based on the legal position expressed by Full Bench in Rambhar Singh Rathore's case (Supra). If the legal position is reversed or modified by a subsequent judgement of Hon'ble Supreme court on 4.1.2001 it cannot be a ground for review in view of Explanation ~~It~~² or Order 47 rule 1.

For the reasons mentioned above the review application is not maintainable and is accordingly rejected.

MEMBER(A)


VICE CHAIRMAN

Dated: 9.7.2001

Uv/

Place before Mr. P. S. Singh (P. M.)



10/7/2001