

Under Circulation

**CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD BENCH,
ALLAHABAD,**

THIS THE 26th DAY OF JULY, 2005

Review Application No. 46 of 2005

In

Original Application No. 1552 of 2004

HON'BLE MR K.B.S. RAJAN, MEMBER-J

Sri Krishna ... Applicant

Versus.

Union of India & Ors. ... Respondents

O R D E R

A plea for review, unless the first judicial view is manifestly distorted, is like asking for the moon. A forensic defeat cannot be avenged by an invitation to have a second look, hopeful of discovery of flaws and reversal of result."

Northern India Caterers (India) Ltd. v. Lt. Governor of Delhi, (1980) 2 SCC 167

2. The applicant, praying for review of order dated 19.4.2005 passed in OA No. 1552 of 2004, has filed the review application on the following grounds in the respective paragraphs, which read as under:

"4. That judgment /order dated 19.4.2005 copy of which was prepared on 3.5.2005, received on 5.5.2005 is patently illegal and arbitrary and the Hon'ble Tribunal has committed serious error in not allowing the interest from 1.8.2003. Further, giving too much time of 04 months to respondents at the cost of applicant and not awarding cost of the Original Application or compensation for abnormal delay in payment of gratuity by the respondents in violation of statutory rules, norms and instructions despite a catena of judgments of Hon'ble Apex Court.

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5. That the recovery of Commr. Debits cannot be done from DCRG that too without following the due process of law as held in case of D.S. Prasad Vs. U.O.I. 2002(1) CAT SLR-113. That further retention of Rs. 12,000/- towards anticipated commercial debit is not at all justified in view of Rule 2732 of IREM Vol. II which should have been finalized, in any case, within six months of the date of retirement of the applicant in terms of Railway Board's letter no. F(E) 111/94/PNI/17 dated 7.8.1997. The Photostat copy of Railway Board's letter dated 7.8.1997 and Rule 2732 of IREM Vol. II are being filed and marked as Annexure No. I and II to the review application.

11. That there are sufficient reasons to recall judgment/order dated 19.4.2005/3.5.2005 which warrants to be reviewed and the original application deserves to be allowed as framed by one and the same judgment and there are no grounds at all to file another application for balance of Rs. 12,000/- which the respondents have further withheld arbitrary and illegally."

3. There has been no mention about error "apparent on the face of records" save in para 12, which in fact does not go in tandem with the earlier paragraphs. The attack on the order is predominantly "arbitrary" "illegal", "patent error".

4. Any patent error, unless the same is apparent "on the face of records" cannot be considered in review jurisdiction.

5. The Apex Court has elucidated the principles of review under the provisions of A.T. Act, 1985 after citing the relevant provisions, in *Ajit Kumar Rath v. State of Orissa, (1999) 9 SCC 596*, as under

"22. (1)-(2) * * *

(3) *A Tribunal shall have, for the purposes 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 matters, namely—*

(a)-(e) * * *

(f) *reviewing its decisions;*

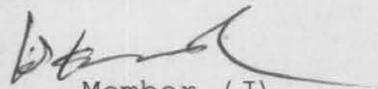
(g)-(i) * * *"

b/w

30. *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 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 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.*

31. *Any other attempt, except an attempt to correct an apparent error or an attempt not based on any ground set out in Order 47, would amount to an abuse of the liberty given to the Tribunal under the Act to review its judgment.*

6. As the grounds under consideration are nowhere near the above principles and as the applicant is only trying to re-agitate the entire matter again, which is impermissible under the review jurisdiction, the review application is rejected under circulation.



Member (J)