

UNDER CIRCULATION

CENTRAL ADMINISTRATIVE TRIBUNAL
JAMMU BENCH JAMMU

Dated: This the 12th day of May 2021

Hon'ble Mr. Rakesh Sagar Jain, Member – J

Hon'ble Mr. Anand Mathur, Member – A

Misc. Review Application No. 61/03/2021

In

Original Application No. 61/998/2020

Mohd Raja Khan (aged 48 years), S/o Late A.H. Khan, R/o Toiba Colony,
Humham, District Budgam-Kashmir-190021.

..... Applicant.

By Advocate : Mr. Altaf Haqani, Sr. Advocate assisted by Mr. Shakir

Haqani

VERSUS

1. Prasar Bharati (Indias Public Service Broadcaster, Directorate General, All India Radio, Prasar Bharti, Akashwani Bhawan, Parliament Street, New Delhi-110001.
2. Deputy Director, General (Administration) Prasar Bharati Directorate General, All India Radio, Akashwani Bhawan, Parliament Street , New Delhi-110001.
3. Director, Doordarshan Kendra, Srinagar-190001.

.....Respondents.

By Advocate : Mr. S.N. Ratanpuri and Mr. Sudesh Magotra, Deputy

Advocate General

ORDER

By Hon'ble Mr. Rakesh Sagar Jain, Member – J

1. The instant Review Application has been filed by Mohd Raja Khan against the order dated 22.02.2021 passed by this Tribunal in OA No. 61/998/2020 titled Mohd Raja Khan v/s Prasar Bharati and others. The OA was disposed by this Tribunal vide order dated 22.02.2021 as being meritless.
2. We have considered the averments of the review application and gone through the material on record to see whether a case for review of the order is made out or not.

3. It is settled law that review jurisdiction is available only on the grounds prescribed under Order XLVII Rule 1 of the Code of Civil Procedure, which contains only three grounds –
- (i) mistake or error apparent on the face of record;
 - (ii) discovery of new and important matter or evidence, which, even after exercise of due diligence, was not within the knowledge of the review petitioner or could not be produced by him at the time when the order sought to be reviewed was passed; and
 - (iii) for any other sufficient reason.
4. The law governing the scope of review has been very succinctly laid down by the Hon'ble Apex Court in:
- I. *Ajit Kumar Rath v. State of Orissa and others*, (1999) 9 SCC 596, 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. Any other attempt, except an attempt to correct an apparent error, or an attempt not based on any ground set out in Order 47 of the Code of Civil Procedure, would amount to an abuse of the liberty given to the Tribunal under the Act to review its judgment.
 - II. *Union of India v. Tarit Ranjan Das*, 2004 SCC (L&S) 160, the scope for review is rather limited, and it is not permissible for the forum hearing the review application to act as an appellate court in respect of the original order, by a fresh order and rehearing the matter to facilitate a change of opinion on merits.
 - III. *Inder Chand Jain(Dead) Through Lrs, Vs.Motilal (Dead) Through Lrs*. Reported in (2009) 14 SCC 663, It is beyond any doubt or dispute that the review court does not sit in appeal over its own order. A rehearing of the matter is impermissible in law or pronounced, it should not be altered. It is also trite that exercise of inherent jurisdiction is not invoked for reviewing any order.

IV. Review is not appeal in disguised in Lily Thomas Vs. Union of India. The power of review can be exercised for correction of a mistake but not to substitute a view. Such powers can be exercised within the limits of the statute dealing with the exercise of power. The review cannot be treated like an appeal in disguise.”

5. Keeping in mind the principles laid down by the Hon’ble Apex Court in the above decisions, we have considered the claim of the review petitioner to find out whether a case has been made out for review of order dated 22.02.2021 passed by this Tribunal in OA No. 61/998/2020 titled Mohd Raja Khan v/s Prasar Bharati and others
6. We have gone through the pleadings and the present R.A. It has been averred in application by the applicant that the order is required to be reviewed on the grounds:
 - I. In the order while referring to the variation of qualifications for the post of Programme Executive and Floor Manager, reliance has been placed upon the degree of responsibility without taking notice of the effect and consequence of the experience, a candidate for promotion to the post of Programme Executive is to possess as against a candidate for appointment to the post of Floor Manager, the same being an entry post.
 - II. Order under review proceeds on the assumption that the applicant has not challenged the rules.
 - III. There is error apparent on the face of record
7. It is a settled law that a review is by no means an appeal in disguise whereby an erroneous decision is reheard and corrected, but lies only for patent error. The appreciation of evidence/ materials on record, being fully within the domain of the appellate court, cannot be permitted to be advanced in the review petition. In a review petition, it is not open to the Tribunal to re-appreciate the evidence/materials and reach a different conclusion, even if that is possible. Conclusion arrived at on appreciation of evidence/materials and contentions of the parties, which were available on record, cannot be

assailed in a review petition, unless it is shown that there is an error apparent on the face of the record or for some reason akin thereto. The applicant has not shown any material error, manifest on the face of the order under review dated 22.02.2021 which undermines its soundness, or results in miscarriage of justice. If the applicant is not satisfied with the order passed by this Tribunal, remedy lies elsewhere. The scope of review is very limited. It is not permissible for the Tribunal to act as an appellate court.

8. What cannot possibly be disputed here is, that it is now well settled principle of law, that the earlier order can only be reviewed if the case squarely falls within the legal ambit of review and not otherwise. Order 47 Rule 1 CPC read with Section 22(3)(f) of the Administrative Tribunals Act, 1985 regulates the provisions of review of the orders. It is now well settled principle of law that the scope for review is rather limited and it is not permissible for the forum hearing the review application to act as an Appellate Authority in respect of the original order by a fresh and re-hearing of the matter to facilitate a change of opinion on merits. The reliance in this regard can be placed on the judgments of the Hon'ble Supreme Court in cases of Parsion Devi and Others vs. Sumitri Devi and Others (1997) 8 SCC 715, Union of India Vs. Tarit Ranjan Das (2003) 11 SCC 658 and Gopal Singh Vs. State Cadre Forest Officers' Association & Others (2007) 9 SCC 369.
9. Through this review application, the review-applicant wants to re-open the entire issue afresh which is not permissible in review. Review is permissible if there is an error of procedure apparent on the face of the record. The order was passed after hearing both the parties and we find no error apparent on the face of record.
10. Once an order has been passed by this Tribunal, a review thereof must be subject to the rules of the game and cannot be lightly entertained. A review of a judgment is a serious step and resort to it is proper only where a glaring omission or patent mistake or grave error has crept in earlier by judicial fallibility. A mere repetition of old and over-ruled arguments, a second trip over covered ground or minor mistakes of inconsequential import are

obviously insufficient, as held by the Hon'ble Supreme Court in Sow Chandra Kanta And Another vs Sheik Habib, [AIR 1975 SC 1500].

11. In the light of what has been discussed above, we do not find that the review application is covered by the aforementioned grounds to justify a review of the order dated 22.02.2021. We do not find any valid ground to interfere. Thus, the review application is dismissed. No order as to costs.

(ANAND MATHUR)
MEMBER (A)

(RAKESH SAGAR JAIN)
MEMBER (J)

Arun