

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH, ALLAHABAD

R.A. No.2274 of 1993
(In O.A. No.627 of 1992)

Date of order 2.5.1994

Union of India and another v... Applicants

-Versus-

Shri D.P. Talwar .. Respondents

CORAM : Hon'ble Shri A.K.Sinha, Member(J)

O R D E R

Hon'ble Shri A.K.Sinha, Member(J):-

1. This application in review is directed against the judgment/order dated 19.7.1993 passed in O.A. No.627 of 1992 allowing the application in part. The applicant had prayed for a direction to the respondents to pay the applicant his dues relating to arrears of pay under the new scale of pay, packing allowance, overtime allowance, bonus, etc. He had also prayed for a direction to the pension disbursing authority to reduce his pension from the date of payment of the commutation value or as admissible under the rules and to cancel the orders for reduction of pension from 18.12.1986 as mentioned in his P.P.O.

2. The applicants (respondents in O.A.627/92) have filed this review application on the ground that as per the circular of the Railway Board the respondent (applicant in O.A.627/92) was entitled for commutation value of the pension to the application to commutation,

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that is, 1.10.1986 and due to non-submission of the Railway circular, the mistake has occurred in the judgment which needs to be reviewed.

3. The applicants have also filed a petition for condonation of delay for filing the review.

4. The judgment/order in O.A.627/92 was passed on 19.7.1993 and the review application was filed on 3.2.1994 which is obviously more than 30 days from the date of the order. Rule 17 of the Central Administrative Tribunal(Procedure)Rules,1987, clearly lays down that no petition for review shall be entertained unless it is ^{filed} ~~is~~ within 30 days from the date of the order for which review is so sought. The explanation for delay is that when the judgment was studied and important policy matter was in conflict, so the present review was filed.

5. I have gone through the judgment and I do not find any error apparent on the face of the record. Rather, on the contrary, the case of the applicant was hotly contested by the respondents in the original application and after elaborate consideration of facts and Railway circulars produced on behalf of the respondents (present applicants), the matter was decided both on fact and law. It is now a well settled proposition of law that a review lies either on a discovery of new and important matter 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

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when there is some mistake or error apparent on the face of it in the judgment. No such case has been made out in the grounds of review. It has been held by the Apex Court in AIR 1979 Supreme Court, page 1047 that power of review may not be exercised on the ground that the decision was erroneous on merit and that, that would be the province of Court of Appeal and that a power of review is not to be confused with an appellate power which may enable the Appellate Court to correct all manner of errors committed by the Subordinate Court.

6. In that view of the matter, I am of the view that power of review cannot be exercised by this Tribunal on the ground that the decision was erroneous on merit or in conflict with the policy-decision of the Government and that, in my view, would be the province of a Court of Appeal; and that the power of review is not to be confused with the appellate power which may enable the Appellate Court to correct all manner of errors if at all committed by the Tribunal.

7. In the result, there is no merit in this review application and the same is, accordingly dismissed.

Ashutosh Sinha
(A.K. Sinha)
Member (J) 2/5/94