

By Circulation

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH
ALLAHABAD

Review Application No. 08 of 1999

In

Original Application No. 769 of 1998

Allahabad this the 18th day of March 1999

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

R.S. Ojha Applicant

Versus

Union of India through;

1. G.M., N.R. Rly.
2. Shri J.P. Yadav, Asstt. Engineer, N. Rly.
Pratapgarh.

Respondents

By Shri R.S. Ojha, in person

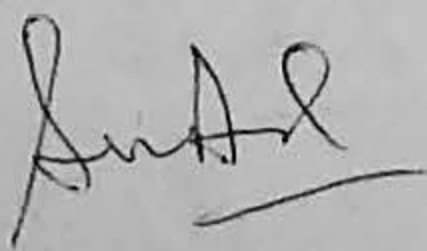
O R D E R

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 18.12.1998 passed in O.A.No. 769/98. The case of the applicant in this review is that the respondent no.2 has failed to comply with the order which was passed on 18.12.1998. Copy of which was given to respondent no.2 on 07.1.1999. The applicant has not forgone his passes. Therefore, review of the judgment dated 18.12.98

was sought with the following reliefs;

- (a) That on the analogy of M.S. Banerjee case the applicant's claim was not based on forgone passes. No orders of any competent authority has been passed against the petitioner to deny the passes asked for 12.1.1998 and 18.6.98.
- (b) That on the basis of the audit report amounting to a large sum of money the petitioner's passes were denied. Hence the cost of the petitioner's journey without pass cannot be denied and the same may be monetised on the principle of equality, equity and judicious consideration.
- (c) That in view of otherwise conclusion this Hon'ble Court may decide the case for compensation to the petitioner by way of damages and non compliance of the Pass Rules.
- (d) That in case of this agreement, this issue may kindly be referred to a Larger Bench of the Tribunal for legal adjudication.
- (e) That the Hon'ble Court may be pleased to direct the respondent no.2 through specific order to comply with the directions so that the petitioner's secure his passes adjustable with availability in the year 1998.
- (f) That the award of cost amounting Rs.43,412/- being the cost of petitioner's journey is required to be saddled on the respondent no.2 who has violated the Pass Rule and deprived the applicant of his privelage passes.
- (g) The Hon'ble Court may award the cost of the application before this Tribunal which has been omitted for cosideration.
- (h) That the Hon'ble Court may consider any other relief to the applicant which it deems fit and proper in the interest of justice.



2. I perused the averments made in this review application and also perused the judgment of this Tribunal dated 18.12.1998.

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 decision. 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 ;

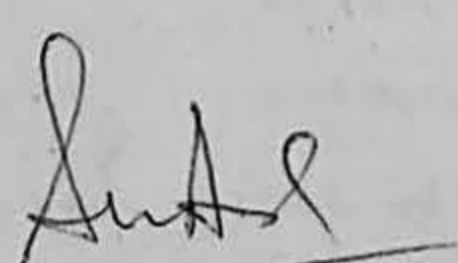
Application for review of judgment:-

(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 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 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.

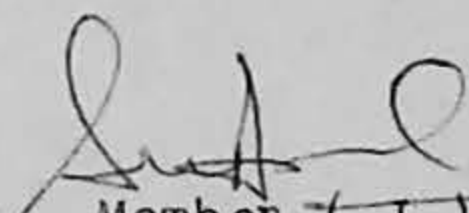
6. It is now well settled that review lies either on discovery of new and important fact or evidence which after the exercise of due diligence was not within the knowledge of the applicant or could not be produced by him at the time when the order was made or where there is some mistake or error apparent 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,

Subal

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, neither there is any error apparent on the face of the record nor any fact is alleged to have been discovered on the basis of which it is necessary to review the order. The relief sought for are beyond the perview of review. This court while exercising the power of review does not exercise the power of appeal. Therefore, in my considered opinion, no case for review of the said judgment is made out and applicant is not entitled to the relief sought for.

8. On the basis of the above, the review application is dismissed.


Member (J)

/M.M./