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By Circulation

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD BENCH,
ALLAHABAD.

....

Review Application No. 127 of 2003

IN

original Application No. 376 of 1997

this the 22nd day of January 2004.

HON'BLE MRS. MEERA CHHIBBER, MEMBER (J)

Vinod Kumar Gaur

....

Applicant.

versus.

Union of India & ors.

....

Respondents.

ORDER

This Review Application has been filed by the applicant against the judgment and order dated 13.5.2003 passed in O.A. no. 376 of 1997 on the following grounds:

- (i) Tribunal's order is vague as it does not say at what rate the damage rent will be charged.
- (ii) No finding as to why regularisation could not be done.
- (iii) No finding is given on double jeopardy.
- (iv) Applicant has next contended that the decision given by the Tribunal is illegal, wrong and bad in law.

2. Applicant has also filed M.A. no. 5017 of 2003 seeking condonation of delay and M.A. no. 5018/2003 seeking stay of the operation of Tribunal's order.

3. I have read the Review application as well as M.As. The stipulated period within which Review application could have been filed is 30 days as per Rule 17(1) of CAT (Procedure) Rules, 1987.
In this case Review application has been filed on 11.12.2003, whereas the judgment was passed on 13.5.2003. Admittedly, applicant had received this copy on 28.5.2003, therefore, the Review application has been filed after approx. 5 1/2 months which is barred by limitation. However, counsel for the applicant has filed his personal affidavit to explain the delay and applicant had earlier challenged the order in Hon'ble High Court of Allahabad also, therefore, without

going into the technicalities, application for condonation of delay is allowed.

4. Coming to the merits of the Review application, it is now well settled that Review application cannot be filed to re-argue the ~~same~~ or ~~as~~ ^{Case} an appeal. The scope of review is very limited and can be entertained only if counsel is able to show that there is some error apparent on the face of record. I also cannot sit in appeal over my own orders. If the applicant feels the judgment given by me is wrong, illegal or bad in law, then the remedy is to challenge the same in higher court. Applicant did go to the Hon'ble High Court, but was not able to satisfy the court. It is not a case where Hon'ble High Court has directed the applicant to file the Review application as is being alleged, but since counsel for the applicant sought permission to withdraw the writ petition with liberty to file Review application, liberty was granted by the Hon'ble High Court.

5. Perusal of the Review application shows that applicant has not been able to show any patent error on the face of record. On the contrary, it is seen the points now raised in the Review application were not even taken in the O.A. and it goes without saying that new points cannot be taken in Review application. Applicant's whole case in O.A. was that no notice was given to him nor he was declared unauthorised and once he was transferred back, the same quarter should have been regularised. All these points have already been dealt with and if the applicant feels I have taken a wrong view, then Review is not the remedy for that. Applicant has submitted that the enhanced damage rent could not have been charged, but neither he has challenged the validity of letter dated 27.5.99, nor any effort was made to amend the O.A. The law is well settled that court can decide only such of the relief which are specifically prayed for in para 8. in the O.A.. Applicant had not prayed for quashing of letter dated 27.5.99, therefore, I was not called-upon to

discuss the validity of the letter by which rate was enhanced. In any case, at what rate applicant was required to pay the damage rent is already reflected in para 6 of the judgment. As far as the question of regularisation of quarter is concerned, it is the discretionary power which has to be exercised by the authority concerned and has to be decided in each case as per the given facts and once the competent authority had rejected the request, court cannot assume the discretionary power of the authorities, nor can the court give a positive direction to the authority to exercise the discretionary power in a particular manner. More-over, in the O.A. it was nowhere stated that in similar circumstances other officers' houses were regularised, nor any instances are given, therefore, the points which were not even raised in the O.A. cannot be allowed to be raised in the Review application.

6. Review application is accordingly dismissed in circulation. Since Review application/^{itself} is dismissed, no orders are required to be passed in M.A. for stay.


MEMBER (J)

GIRISH/-