

**Central Administrative Tribunal, Lucknow Bench, Lucknow**

Review Application No. 35/2005 in O.A.No. 177/2005

This the 21<sup>st</sup> day of July, 2005

**HON'BLE SHRI SHANKER RAJU, MEMBER (J)**  
**HON'BLE SHRI S.P. ARYA, MEMBER (A)**

Parmeshwar Sah (MES No. 405309) aged about 55 years son of late Sri Santosh Sah, resident of House No. 2/40, Viram Khand, Gomti Nagar, Lucknow (presently posted as Director in the office of Chief Engineer (Air Force), Western Air Command, Palam, New Delhi).

...Reviewist

By Advocate: Sri R.C. Singh

Versus

1. Union of India through the Secretary, Ministry of Defence, New Delhi.
2. Engineer-in-Chief, Army Headquarters, Kashmir House, Rajaji Marg, DHQ P.O. New Delhi-110001.
3. Union Public Service Commission, Dholpur House, New Delhi through its Secretary.
4. MES 113337 Shri K.P. Pillai, Superintendent Engineer, CCER & D, DRDO, Near Diamond Point, Mud Fort, Secunderabad (A.P.)

..Respondents

**ORDER (BY CIRCULATION)**

**BY HON'BLE SHRI S.P. ARYA, MEMBER (A)**

This Review Application is directed against the order passed by the Tribunal in O.A. No. 177/2005 on 24.5.2005. The grounds taken for review are failure to appreciate large number of other decisions and erroneous conclusions.

2. We have gone through the review application and judgment which is sought to be reviewed. The scope of review under section 22 (3)(f) of the Administrative Tribunal Act, 1985 read with Order XLVII Rule (1) and (2) of the CPC lies in a narrow campus. The review can be made only when there is error apparent on the face of record or on discovery of any new and important material which even after exercise of due diligence was not available with the review applicant.
3. An erroneous decision and a decision which could be characterized as vitiated by "error apparent" has been distinguished by three Judges Bench of Hon'ble Supreme Court in M/s Thungabhadra Industries Ltd.

**Vs. Govt. of Andhra Pradesh** reported in AIR 1964 Supreme Court 1372. It was also held 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. Where without any elaborate argument, one could point to the error and say here is a substantial point of law which stares one in the face, and there could reasonably be no two opinions entertained about it, a clear case of error apparent on the face of the record would be made out." In **2002 Supreme Court Cases (L&S) 756** in the case of **K.G. Derasari and Another Vs. Union of India and others**, it was observed by the Apex Court that any attempt, except to 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. The Tribunal cannot proceed to re-examine the matter as if it is Original Application before it in the light of the ratio given in **Subhash Vs. State of Maharashtra and other** reported in **AIR 2002 Supreme Court 2537**.

4. Up shot of the above stated rulings given by the Hon'ble Supreme Court would be that the Tribunal cannot hear the review application as appeal. A review cannot be sought merely for a fresh hearing or arguments or correction of erroneous view taken earlier. If the review applicant is not satisfied with the orders passed by the Tribunal, remedy lie elsewhere.

5. The Apex Court in Union *in Union of India Vs. Tarit Ranjan Das* 2004 SCC (L&S) 160 observed as under:-

"The Tribunal passed the impugned order by reviewing the earlier order. A bare reading of the two orders shows that the order in review application was in complete variation an disregard of the earlier order and the strong as well as sound reasons contained therein whereby the original application was rejected. The scope of review is rather limited and 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 order and rehearing of the matter to facilitate a change of opinion on merits. The Tribunal seems to have transgressed its jurisdiction in dealing with the review petition as if it was hearing an original application. This aspect has also not been noticed by the High Court."

6. Having regard to the above, R.A. is dismissed in circulation.

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(S.P. ARYA)

Member (A)

HLS/-,

*S. Raju*

(SHANKER RAJU)

Member (J)