

Central Administrative Tribunal Lucknow Bench Lucknow

Review Application No. 34/09 in Original Application No.648/2002

This, the 7th day of July, 2009

HON'BLE MR. M. KANTHAIAH, MEMBER (J)

HON'BLE DR. A.K. MISHRA, MEMBER (A)

Ved Prakash Bali aged about 66 years son of late Sri Tara Chand Bali resident of House No.75-A, Mahesh Bhawan, Rajendra Nagar, Lucknow (Lastly working as Upper Division Clerk, Northern Region, Geological Survey of India, Lucknow.)

.....Applicant

By Advocate: Sri R.C.Singh

Versus

1. Union of India through the Secretary, Ministry of Steel and Mines, New Delhi.
2. Director General, Geological Survey of India, 27, Jawahar Lal Nehru Road, Kolkatta.
3. Senior Deputy Director General, Geological Survey of India, Northern Region, Lucknow.

Respondents.

ORDER (Under Circulation)

By Hon'ble Dr. A. K. Mishra, Member (A)

This is a review application under Section 22(3)(f) of the Administrative Tribunal Act, 1985 read with Rule 17 of the CAT (Procedure), Rules, 1987 against the judgment and order dated 20.5.2009 of this Tribunal.

2. The main grounds stated in the review application in support of the review of the order are that the Tribunal has failed to appreciate the evidence on facts as well as points of law canvassed by the applicant in his Original Application and also at the time of hearing. All the grounds set out at paragraph 21 of the Review Petition more or less allege that the Tribunal failed to appreciate certain facts about his illness, about the purport of Rule 14(4) of CCS(CCA) Rules, 1965, the significance of citation made in respect of applicability of the case of



P.N. Srivastava Vs. State of U.P. and others (1999) 1 UPLBEC , 672, improper weightage given to the word 'preferably' appearing in the judgment and order dated 25.7.001, improper appreciation of the provisions of fundamental Rule 53 and also incorrect appreciation in respect of the format of certificate to be given by an employee under suspension.

3. As enumerated above, the grounds are about non-appreciation of facts and points of law. Further, it has been stated that the judgment and order is erroneous and on that ground liable to be reviewed.

4. An erroneous judgment is not the same as "an error apparent on the face of the record". The settled position of law is that the scope of review is limited. It cannot be utilized for the purpose of hearing an appeal against an erroneous judgment. The judgment of the Hon'ble Supreme Court in the recent case of **State of West Bengal and others Vs. Kamal Sengupta and another reported at (2008) 8 SCC 612**, has lucidly explained the phrase 'error apparent on the face of record'. Paragraph 22 of this judgment which is relevant for our purpose is extracted below:-

"22. The term "mistake or error apparent" by its very connotation signifies an error which is evident per se from the record of the case and does not require detailed examination, scrutiny and elucidation either of the facts or the legal position. If an error is not self-evident and detection thereof requires long debate and process of reasoning, it cannot be treated as an error apparent on the face of the record for the purpose of Order 47 Rule 1 CPC or Section 22 (3)(f) of the Act. To put it differently, an order or decision or judgment cannot be corrected merely because it is erroneous in law or on the ground that a different view could have been taken by the court/ tribunal on a point of fact, or law. In any case, while



exercising the power of review, the court/tribunal concerned cannot sit in appeal over its judgment/ decision."

5. In view of the position of law pronounced by the Supreme Court on the subject, there is no justification to admit this review application and sit in judgment on our own orders. As such it is dismissed. However, the applicant, if he so desires, can seek redress at appropriate forum.

6. In the circumstances, the Review Application is dismissed under circulation.

Dr. A.K. Mishra
(Dr. A.K. Mishra)
Member (A)

M. Kanthaiah
(M. Kanthaiah)
Member (J)

HLS

*copy of order
dated 07-7-1997
B. S. S.
31-7-1997*