

Central Administrative Tribunal Lucknow Bench Lucknow

Review Application No. 40/09 in Original Application No.365/2002

This, the 8th day of October, 2009

HON'BLE MS. SADHNA SRIVASTAVA, MEMBER (J)
HON'BLE DR. A.K. MISHRA, MEMBER (A)

Yogesh Kumar Saxena (MES-421557) aged about 47 years son of Sri S.N. Lal resident of C-1651, Indira Nagar, Lucknow (presently working as Upper Division Clerk in the office of Chief Engineer, Headquarters Central Command, Lucknow Cantt.

.....Applicant

By Advocate: Sri R.C.Singh

Versus

1. Union of India through the Secretary, Ministry of Defence, New Delhi-110001.
2. Engineer-in-Chief, Integrated Headquarters of Ministry of Defence (Army) Kashmir House, DHQ PO, New Delhi-110011.
3. Chief Engineer, Central Command, Lucknow-226002.
4. Chief Engineer, Lucknow Zone, Lucknow-226002.

Respondents.

By Advocate: None

ORDER (Under Circulation)

By Hon'ble Ms.Sadhna Srivastava, Member (J)

This application has been filed seeking review of judgment and order dated 20.8.2009 passed in O.A. No. 365/2002 (Yogesh Kumar Saxena Vs. UOI and others).

2. The applicant has filed this application alleging in para 20(j) that the judgment is based on misconception of facts and law. Reliance has been placed on the case of **Board of Control for Cricket India and another Vs. Netaji Cricket Club and others (2005) 4 SCC, 741**.

3. The scope and power of Tribunal to review its decision has been elaborately laid down by the Apex Court in the case of **State of West Bengal and others Vs. Kamal Sengupta and another reported at (2008) 8 SCC 612** after taking into account almost the entire case law on the subject of review. It has been held that an error which is not self evident and which can be discovered only by a long process of reasoning, cannot be treated as an error apparent on the face of record justifying exercise of power under section



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22 (3) (f) of AT Act. An erroneous decision cannot be corrected in the guise of exercise of power of review. It has further been held that review can not partake^{of} the character of an appeal. The following observation has been made in para 22 of the judgment.

“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.”

4. The case of Board of Control for Cricket India (Supra) has already been considered by the Apex Court in 2008 in the case of State of West Bengal and others Vs. Kamal Sengupta and Another (supra). It has been held in para 12 and 52 of the judgment that the case of Board of Control for Cricket India has to be treated as confined to the facts of that case. It would mean that it is not to be treated as a precedent laying down any proposition of law.

5. Review is not the remedy for the applicant to correct an erroneous judgment. The Tribunal has no power to review its judgment if there is no error apparent on face of record.


6. Perusing the application and ground of review, it is apparent that in the opinion of applicant, the judgment is erroneous and he is seeking its correction in the guise of exercise of power of review. In the case of



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SCC 369, it was held that the Tribunal could not travel out of its own jurisdiction to write a second order in the name of reviewing its own judgment and further that the Tribunal could not sit over its own judgment as an appellate authority.

7. We have gone through the review application. We do not find any mistake or error apparent on the face of record. Any error on the face of record must be such as to appear on the face without having to apply process of logic and arguments. Since the scope of review application is very limited, we do not see any error apparent in the judgment. Therefore, review application is dismissed without any order as to costs.


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


(Sadhna Srivastava)
Member (J)

HLS/-

of
custody order
dated 8-10-2009
Bihar
9-10-2009