

Central Administrative Tribunal Lucknow Bench Lucknow

Review Application No. 45/09 in Original Application No.345/2005

This, the 21st day of October, 2009

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

M.M.Srivastava son of late Sri D.P.Srivastava aged about 65 years resident of D-81, Sector D, LDA Colony, Kanpur Road, Lucknow employed as Section Research Engineer, Civil under the control of Director General, RDSO, Ministry of Railways, Manak Nagar, Lucknow.

.....Applicant

By Advocate: Sri K.P.Srivastava

Versus

1. Union of India through the Director General RDSO, Manak Nagar, Lucknow, Ministry of Railways, Lucknow
2. Executive Director, G.E., RDSO, Ministry of Railways, Manak Nagar, Lucknow.
3. A.K.Singh, Director, C/E, RDSO, Ministry of Railways, Manak Nagar, Lucknow.

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 9th September,2009 passed in O.A. No. 45/2009 (M.M. Srivastava Vs. UOI and others).

2. The applicant has filed this application alleging that the Tribunal has not considered that the adverse remarks appears to be of casual nature and without reference to specific incident to support adverse remark which is necessary. Therefore, the prayer is to review the aforesaid judgment.
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 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 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. 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.

5. 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 **Gopal Singh Vs. State Cadre Forest Officers Association 2007(9) 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.

6. 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/-

On order
copy to order
dated 21-10-2014
sent
S.S.