

CENTRAL ADMINISTRATIVE TRIBUNAL  
LUCKNOW BENCH, LUCKNOW

R.A. 4 OF 2013

This the 17<sup>th</sup> day of June, 2013

Hon'ble Shri Navneet Kumar, Judicial Member

Laxman,  
Aged about 27 years,  
Son of Late Sri Shobh Lal (Ex. Group 'D' employee),  
Resident of Raja Bodhka Purwa,  
Post Dabba Semar,  
District - Faizabad,  
Permanent resident of Kedipur,  
Post - Chaurey Bazar,  
District - Faizabad.

.. Applicant

- V E R S U S -

1. Union of India through the Secretary,  
Department of Post & Telegraph,  
Central Secretariat,  
Government of India,  
New Delhi.
2. Chief Post Master General,  
U.P. Circle, Lucknow.
3. Senior Superintendent of Post Offices, Faizabad.

.. Opposite Party

(Disposed of by Circulation)

ORDER


The present Review Application has been preferred by the applicant for reviewing the order dated 12.4.2013 passed in O.A. No. 272 of 2011.

The Ld. Counsel for the applicant has pointed out in the present Review Application that the father of the applicant was a Gr. 'D' employee in Faizabad Postal Division, who died on 14.3.2001 leaving behind his wife



and five children including three daughters. It is also pointed out by the review applicant that the Tribunal while deciding the Original Application rejected the claim of the applicant for grant of compassionate appointment whereas there is a specific report about the consideration of the SC/ST candidates and the observations made by this Tribunal in the case of M.A. Hashmi v. Union of India & ors. passed by the Lucknow Bench of the Tribunal on 25.2.2011 and other decisions were not considered by the Tribunal while deciding the Original Application. The Ld. Counsel for the applicant has also pointed out that in accordance with para 6 of the judgment in the case of K. Ajit Babu & ors. reported in (1997) 6 SCC 47 was also not considered by the Tribunal while deciding the Original Application.

2. The bare perusal in regard to the fact of the Original Application is that the deceased employee died in harness on 14.3.2001 and the application was made for grant of compassionate appointment in 2001 and reminder was made in 2002. Subsequently the case of the applicant was considered three times i.e. in the year 2004, 2005 and 2007 but when the applicant was not found fit for grant of compassionate appointment the claim of the applicant was rejected vide order dated 9.2.2011. The basic purpose of compassionate appointment is to give the financial help to the bereaved family and it can be considered as a matter of right. Apart from this the family of the applicant could survive for a period of 12 years from the date of death of the deceased employee, as such, it cannot be said that the family of the deceased employee was having any financial crises. The whole object of granting compassionate appointment is to enable the



enable the family to tide over the sudden crises and appointment on compassionate ground cannot be treated as a source of recruitment.

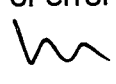
3. In the instant case the applicant was considered by the respondents and when he was not found fit his case was rejected and this fact was mentioned in the judgment passed by the Tribunal as well.

4. The Hon'ble Supreme Court in the matter of **Meera Bhanja v. Nirmala Kumari Choudhury reported in (1995) 1 SCC 170** has decided the issue and has observed that review proceedings are not by way of an appeal and have to be strictly continued to the scope and ambit of Order 47 Rule 1 of CPC. The review petitions has to be entertained only on the ground of error apparent on the face of record. The Hon'ble Apex Court has observed as under:

"8. It is well settled that the review proceedings are not by way of an appeal and have to be strictly confined to the scope and ambit of Order 47 Rule 1, CPC. In connection with the limitation of the powers of the court under Order 47 Rule 1, while dealing with similar jurisdiction available to the High Court while seeking to review the orders under Article 226 of the Constitution of India, this Court, in the case of *Aribam Tuleshwar Sharma v. Aribam Pishak Sharma*, speaking through Chinnappa Reddy, J., has made the following pertinent observations: (SCC p. 390, para 3).

"It is true as observed by this Court in *Shivdeo Singh v. State of Punjab*, there is nothing in Article 226 of the Constitution to preclude the High Court from exercising the power of review which inheres in every Court of plenary jurisdiction to prevent miscarriage of justice or to correct grave and palpable errors committed by it. But, there are definitive limits to the exercise of the power of review. The power of review may be exercised on the discovery of new and important matter or evidence which, after the exercise of due diligence was not within the knowledge of the person seeking the review or could not be produced by him at the time when the order was made; it may be exercised where some mistake or error apparent on the face of the record is found; it may also be exercised on any analogous ground. But, it may not be exercised on the ground that the decision was erroneous on merits. That would be the province of a court of appeal. A power of review is not to be confused with appellate power which may enable an appellate court to correct all manner of errors committed by the subordinate court."

9. Now it is also to be kept in view that in the impugned judgment, the Division Bench of the High Court has clearly observed that they were entertaining the review petition only on the ground of error apparent on the



face of the record and not on any other ground. So far as that aspect is concerned, it has to be kept in view that an error apparent on the face of record must be such an error which must strike one on mere looking at the record and would not require any long-drawn process of reasoning on points where there may conceivably be two opinions. We may usefully refer to the observations of this Court in the case of **Satyanarayan Laxminarayan Hegde v. Mallikarjun Bhavanappa Tirumale** wherein, K.C. Das Gupta, J., speaking for the Court has made the following observations in connection with an error apparent on the face of the record;

An error which has to be established by a long-drawn process of reasoning on points where there may conceivably be two opinions can hardly be said to be an error apparent on the face of the record. Where an alleged error is far from self-evident and if it can be established, it has to be established, by lengthy and complicated arguments, such an error cannot be cured by a writ of certiorari according to the rule governing the powers of the superior court to issue a writ."

5. As categorically pointed out that the Court who has decided the matter cannot re-appraise the entire issue afresh. Only the typographical error or the error apparent on record can be rectified in the Review Application. By means of the present Review Application the applicant tried to reopen the entire matter afresh. The Tribunal while deciding the R.A. No. 34 of 2011 & O.A. No. 2232 of 2010 has relied upon the decision of the Hon'ble Apex Court in the case of **State of West Bengal and Ors. -vs- Kamal Sengupta and Another, 2008 (3) AISLJ 231,**

"5. In the matters concerning review the Tribunal is guided by Rule 47(1) of CPC. Also the decision of the Apex Court in Kamal Kumar Sengupta would be applicable in review matter being dealt with by the Tribunal. The parameter of a review application is limited in nature. The Apex Court has laid down the contours of a review application in the **State of West Bengal and Ors. -vs- Kamal Sengupta and Another, 2008 (3) AISLJ 231**. At para 28 the Apex Court has laid down eight factors to be kept in mind which are as follows:

- (1) The power of the Tribunal to review is akin to order 47 Rule 1 of CPC read with Section 114.
- (2) The grounds enumerated in order 47 Rule 1 to be followed and not otherwise.
- (3) "that any other sufficient reasons" in order 47 Rule 1 has to be interpreted in the light of other specified grounds.

- (4) An error which is not self evident and which can be discovered by a long process of reasoning cannot be treated as an error apparent on the face of the record.
- (5) An erroneous decision cannot be correct under review.
- (6) An order cannot be reviewed on the basis of subsequent decision/ judgement of coordinate/ larger bench or a superior Court.
- (7) The adjudication has to be with regard to material which were available at the time of initial decision subsequent event/ developments are not error apparent.
- (8) Mere discovery of new/ important matter or evidence is not sufficient ground for review. The party also has to show that such matter or evidence was not within its knowledge and even after the exercise of due diligence the same could not be produced earlier before the Tribunal.

6. It is clear that the ruling of the Supreme Court in **Kamal Sengupta (supra)** is that the crucial point is error on the face of the record. No such error on the face of the record has been shown by the applicants."

6. Even if the decision of the Tribunal in the OA is erroneous it cannot be corrected in a Review Application nor can a Tribunal write a second order since it can not sit as an appellate authority over its own earlier order. Considering the facts of the case and the law of the land as is laid down by the Hon'ble Apex Court I am of the view that the Review Application lacks merit as such fit to be dismissed.

7. The RA is dismissed. No costs.

Navneet Kumar  
(Navneet Kumar)  
MEMBER (J)

SP

ok  
copy of order  
dated 17-6-13  
by SP  
02-7-13