

**Central Administrative Tribunal Lucknow Bench Lucknow**

**Review Application No. 12/2013  
In  
Original Application No. 291 of 2011**

**This, the 23<sup>rd</sup> day of September, 2013.**

**HON'BLE SRI NAVNEET KUMAR, MEMBER (J)**

Vishal Shukla, aged about 30 years, S/o Late Uma Kant Shukla, R/o 607, Rajendra Nagar, Lucknow.

.... Applicant/Revisionist

In re:

Vishal Shukla, aged about 30 years, S/o Late Uma Kant Shukla, R/o 607, Rajendra Nagar, Lucknow.

.... Applicant/Revisionist

By Advocate Sri S. P. Singh.

**Versus**

1. Union of India through the Secretary to the Government of India, Ministry of Broadcasting & Communication, New Delhi.
2. Chief Executive Officer/Chairman, Prasar Bharti, Secretariat, Broadcasting Corporation of India, IIInd Floor, PTI Building, Sansad Marg, New Delhi-110001.
3. D. G. Prasar Bharti Doordarshan Bhawan (S-II Section) New Delhi.
4. Station Director, AIR, Lucknow.
5. Director, Doordarshan Kendra, Lucknow.
6. The Station Engineer, Doordarshan Maintenance Centre, 517, Civil Lines, Gwalior Road, Jhansi.

Respondents.

**Order (Under Circulation)**

**By Hon'ble Sri Navneet Kumar Member (J)**

The present Review Application has been preferred by the applicant for reviewing the order dated 12<sup>th</sup> April, 2013 passed by this Tribunal, whereby, the Tribunal dismissed the O.A.

2. The applicant preferred the O.A. challenging the order dated 30.11.2000 and also prayed for issuing a direction upon



the respondents to consider the case of the applicant for compassionate appointment. The case of the applicant was that after the death of the applicant's father, who died in 2008, the applicant submitted an application in July, 2009 and after considering the claim of the applicant, the respondents authorities rejected the claim of the applicant vide order dated 30.11.2010. The learned counsel for the applicant submitted through his review application that the Tribunal only considered the contentions made in the counter reply wherein, it is pointed out that the applicant's family is getting family pension of Rs. 10025/- per month in addition to the said amount, a gross payment of Rs. 14,04,000/- approximately which was received as retrial dues. The learned counsel for the applicant also pointed out that the Tribunal while deciding the O.A. only relied upon the rejection order dated 30.11.2010. The Tribunal, also failed to call for the records for its perusal before passing of the order. Apart from this, it is also pointed out by the learned counsel for the applicant that without any order of rejection on record, the Tribunal deciding the matter on the basis of the observations made by the Hon'ble Apex court.

3. The bare perusal of the prayer made in the O.A. is absolutely clear to the extent that the applicant prayed for quashing of the impugned order dated 30<sup>th</sup> November 2010 and it is also claimed by the learned counsel for the applicant that the said order dated 30<sup>th</sup> November, 2010 is illegal and without any basis. Apart from this, the issue raised in the present review application are already raised in the O.A. and they were considered and decided by the Tribunal while passing the final order on 12.4.13.

4. The applicant, by means of the present Review Application, wants to re-open the entire issue afresh as all these points were taken by the applicant in the O.A. as well.

5. 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."

An error which has to be established by a long-down 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."

6. As categorically pointed out that the Hon'ble Apex Court who has decided the matter cannot re-apprise 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. 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 (Supra)/**

At para 28 the Hon'ble 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/ judgment 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 Hon'ble 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."

7. 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.

8. The RA is dismissed. No costs.

*V.P.S. Agarwal*  
(**Navneet Kumar**)  
**Member (J)**

~~OR~~  
Copies of order  
Dated 23-9-12  
Folhead  
25-9-12