

**CENTRAL ADMINISTRATIVE TRIBUNAL LUCKNOW BENCH  
LUCKNOW**

**Review Application No. 332/00007/2014**

**In**

**Original Application No: 513/2010**

**This, the 14<sup>th</sup> day of February, 2014.**

**HON'BLE MR. NAVNEET KUMAR MEMBER (J)**

Deo Nath Ram Verma aged about 70 years son of Lae Sri Parmeshwar Verma R/o 1/601 Vikas Nagar, Lucknow (Retired APM HSG Lucknow GPO.)

**Applicant**

**By Advocate Sri R. S. Gupta.**

**Versus**

1. Union of India through the Secretary Department of Post New Delhi.
2. Chief Postmaster General U.P. Lucknow.
3. Chief Postmaster Lucknow GPO.

**Respondents**

**ORDER (Under Circulation)**

**By Hon'ble Mr. Navneet Kumar, Member (J)**

The present Review Application is preferred by the applicant for reviewing the order dated 20.12.2013 passed in O.A. No. 513 of 2010. While deciding the O.A., the Tribunal allowed the O.A. The learned counsel appearing on behalf of the applicant has pointed out through the review application that the Tribunal while deciding the original application has ignored the chart of retiral dues and date and has also ignored the chart on which interest is due and directed the authorities to give personal hearing to the applicant. The Tribunal while allowing the original application has also directed for payment of interest @ 9% per annum from the due date till the date of actual payment but the same was required to be paid only after the personal hearing is to be given to the applicant.

2 That by means of the present Review Application the applicant tried to reopened the entire issue afresh. The applicant once again tried to point out the averments which was duly considered by the Tribunal while passing the order on 20.12.13.

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 on review 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 also 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 **AribamTuleshwar Sharma v. AribamPishak 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-down 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-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.”

5. As categorically pointed out that the 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 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 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.

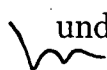
7. The issue in regard to interference in the review application and the scope of review lies only on the grounds mentioned in order 47 Rule 1 read with Section 141 CPC. The party must satisfy the court that the matter or evidence discovered by it at a subsequent stage could not be discovered or produced at the initial stage though it had acted with due diligence. It is also clear that a review can be allowed only when some mistake or error on the face of record is found or on any analogous ground. It is also to be pointed out that review is not permissible on the ground that the decision was erroneous on merits as the same would be the province of an Appellate Court.

8. While deciding the review Petition No.294/2001 (Chandra Bhushan Pandey), the Hon'ble High Court has been pleased to observe as under:-

**"8. In M/s. Thungabhadra Industries Ltd. Vs. The Government of Andhra Pradesh represented by the Deputy Commissioner of Commercial Taxes, Anantapur, AIR 1964 SC 1372, The Apex Court held that a review is by no means an appeal in disguise whereby an erroneous decision is reheard and corrected. but lies only for patent error. We do not consider that this furnishes a suitable occasion for dealing with this difference exhaustively or in any great detail, but it would suffice for us to say that where without any elaborate argument one could point to the error and say here is a substantial point of law which stares one in the face, and there could reasonably be no two opinions entertained about it, a clear case of error apparent on the face of the record would be made out.**

**9. Hon'ble the Apex Court in Subhash Vs. State of Maharastra & Another, AIR 2002 SC 2537, the Apex Court emphasised that Court should not be misguided and should not lightly entertain the review application unless there are circumstances falling within the prescribed limits for that as the Courts and Tribunal should not proceed to re-examine the matter as if it was an original application before it for the reason that it cannot be a scope of review."**

9. The full bench of the Tribunal has also followed the view of the Hon'ble Apex Court in the case of **Chandra Kanta Vs. Sheikh Habib reported in (1975) 1 SCC 674** and has been pleased to observe as

under:-  


“The Tribunal also in the case of Anil Kumar Bose Vs. Presidency Postmaster has held that a party is not entitled to seek a review of the judgment delivered by this Court merely for the purpose of rehearing and fresh decision of the case. Thus, we find that there is no such matter produced in the review application which could show any error apparent on the face of the judgment or that the judgment needs to be reviewed in the light of the contentions raised in the review petition. Even if the view taken by the Full Bench in drawing its conclusion may be assailed as erroneous that by itself cannot be ground for review.”

Not only this, it is also clear that a party is not entitled to seek a review of judgment for the purpose of rehearing and fresh decision in the case.

10. 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.

11. The RA is dismissed. No costs.

*Navneet Kumar*  
(Navneet Kumar)  
Member (J)

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*OR*  
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