

**CENTRAL ADMINISTRATIVE TRIBUNAL LUCKNOW BENCH
LUCKNOW**

M.A. No. 332/02702/2014

In

Review Application No. 332/00060 of 2014

In

Original Application No. 505 OF 2010

This, the 1st day of December, 2014.

HON'BLE MR. NAVNEET KUMAR MEMBER (J)

1. Union of India through the Secretary, Department of Pension and Pensioners Welfare, Lok Nayak Bhawan, New Delhi-110003.
2. Director (P.P.) Department of Pension and Pensioners Welfare, Lok Nayak Bhawan, New Delhi-110003.
3. Chief Post Master General, U.P. Circle, Lucknow.

Revisionists

By Advocate Sri Rajendra Singh.

Versus

1. Yamuna Singh aged about 66 years, son of Late Sri Harihar Singh, resident of Hari Om Satguru Bhawan, A.F. Raoad Bakshi Ka Talab, Lucknow-227202.
2. H. N. Shukla, aged about 66 years, son of Late Sri N.L. Shukla resident of Mohalla Dayanand Nagar, behind Old Telephone Exchange, Barabanki.
3. R. P. Pandey, aged about 68 years, son of Late Sri Ram Narain Pandey, resident of In front of I.T.I. Pani Ki Tanki, I.T.I Bast.
4. Matadin, aged about 67 years, son of Late Sri Kallu Ram, Ramzam Nagar, Nawgarh, Sidharth Nagar.
5. P.L. Rathore aged about 66 years, son of Late Nanhey Lal, resident of House No. 18/342, Indira Nagar, Lucknow-16.
6. Mool Ram Verma, aged about 71years, son of Late Shiv Dayal Verma, reident 343/2, Begambagh, Sitapur.
7. Ram Deo aged about 69 years, son of late Chhatanke, resident of 6/315, Gomti Nagar, Lucknow.

....Respondents.

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

The present Review Application is filed under Section 22(3) (f) of AT Act, 1985 read with Rule 17 of CAT (Procedure) Rules 1987 to review the judgment and order dated 23.5.2014 passed in O.A. No. 505 of 2010. The copy of the order was duly obtained by the review applicants on 27.5.2014 whereas, the review application is preferred on 19.11.2014 along with an application for condonation of delay. While preferring the review application, the reviewists taken a ground that the judgment of the Tribunal is contrary to the guidelines issued by the DOP&T vide O.M. dated 01.09.2008 and the applicants are not entitled to get the benefit of the judgment and order dated 01.11.2011. It is also indicted by the review applicants that the benefit @ 50% of Grade Pay in the revised pay structure was neither examined by the Hon'ble CAT, Principal Bench, nor any direction in that regard was given in the judgment and order dated 01.11.2011. Though it is submitted by the review applicants that the order of the Principal Bench is challenged before the Hon'ble High Court after the dismissal of the Writ Petition, the matter is pending before the Hon'ble Apex Court.

2. While deciding the O.A., The Tribunal observed that the decision of the Full Bench passed by the Principal Bench in O.As No. 655/2010, 3079/2009, 306/2010 and 507/2010 dealt with the resolution dated 29.8.2008 and a direction was issued to the respondents to re-fix the pension. Though the said order was challenged before the Hon'ble High Court and the Writ Petition was also dismissed. In the instant O.A. also the applicant has prayed for quashing of the order dated 19.3.2010 and also prayed for issuing a direction to the respondents to increase the pension of pre-2006 pensioners at least 50% of grade pay corresponding to pre-revised scale given to existing employees so as to make the fitment benefit given to the pensioners. While deciding the O.A., the grounds taken in the review application were considered and the review applicant wants to re-open the entire issue a fresh.

3. In the case of **K.Ajit Babu Vs. Union of India 1997 (6) SCC 473 (para 4)**, while examining the provisions of Section 22(3)(f) of the AT Act and Rule 17(1) of CAT (Procedure) Rules and also order 47 Rule 1 of CPC, the Hon'ble Apex Court laid down that right of review is available to the aggrieved person on restricted ground mentioned in Order 47 of the Code of Civil Procedure if filed within the period of limitation. The matter of condonation of delay in such cases also came up before the Full Bench of Andhra Pradesh High Court in the case of **G.Narasimha Rao Vs. Regional Joint Director of School Education, Warangal and others -2005(4) SLR 720**. The matter was also examined by the Full Bench with reference to Section 22(3)(f) of the AT Act, 1985 and other relevant provisions of the CAT (Procedure) Rules, provisions of the Limitation Act etc. and it was held that a Tribunal has no jurisdiction to condone the delay in filing the Review Application. It was laid down that the Tribunal will not have jurisdiction to condone the delay by taking aid and assistance of either sub section (3) of Section 21 of the Act or Section 29(2) of the Limitation Act. It may be mentioned here that provisions of Rule 19 of A.P. Administrative Tribunal (Procedure) Rules, 1989 which are similar to above Rule 17(1) of CAT (Procedure) Rules, 1987 were also considered which are as under:-

“ No application for review shall be entertained unless it is filed within 30 days from the date of receipt of copy of the order sought to be reviewed.”

4. Thus, the right of review is available if such an application is filed within the period of limitation. If such a power to review is permitted without any limitation then no decision would be final because the decision would be subject to review at any time at the instance of the party feeling adversely affected by the said decision. A party in whose favour a decision has been given cannot monitor the case for all times to come. Therefore, the public policy demands that there should be an end of legal cases.

5. As regards the merit of the case is concerned, the scope of review is very limited. As observed by the Hon'ble Apex Court in the case of **Meera**

Bhanja vs. Nirmala Kumari Choudhury reported in (1995) 1 SCC 170 , that review proceedings cannot be considered by way of an appeal and have to be strictly continued to the scope and ambit of Order 47 Rule 1 of CPC and review petition is required to be entertained only on the ground of error apparent on the face of record. The Hon'ble Apex Court has also been pleased to observe that while deciding the review, the matter cannot be re-apprised and only typographical error apparent on record can be reviewed.

6. In another case of **Parsion Devi and Others Vs. Sumitri Devi and Others reported in (1997) 8 SCC -715**, the Hon'ble Apex Court has been pleased to observe as under:-

“9. Under Order 47 Rule 1 CPC a judgment may be open to review inter alia if there is a mistake or an error apparent on the face of the record. An error which is not self evident and has to be detected by a process of reasoning, can hardly be said to be an error apparent on the face of the record justifying the court to exercise its power review under Order 47 Rule 1 CPC. In exercise of the jurisdiction under Order 47 Rule 1 CPC it is not permissible for an erroneous decision to be "reheard and corrected". A review petition, it must be remembered has limited purpose and cannot be allowed to be "an appeal in disguise."

10. Considered in the light of this settled position we find that Sharma, J. clearly over-stepped the jurisdiction vested in the court under Order 47 Rule 1 CPC. The observation of Sharma, J. that "accordingly", the order in question is reviewed and it is held that the decree in question is reviewed and it is held that the decree in question was of composite nature wherein both mandatory and prohibitory injunction were provided" and as such the case was covered by Article the scope of Order 47 Rule 1 CPC. There is a clear distinction between an erroneous decision and an error apparent on the face of the record. While the first can be corrected by the higher forum, the later only can be corrected by exercise of the review jurisdiction. While passing the impugned order, Sharma, J. found the order in Civil Revision dated 25.4.1989 as an erroneous decision, though without saying so in so many words. Indeed, while passing the impugned order Sharma, J. did record that there was a mistake or an error apparent on the face of the record which not of such a nature, "Which had to be detected by a long drawn process of reasons" and proceeded to set at naught the order of Gupta, J. However, mechanical use of statutorily sanctified phrases cannot detract from the real import of the order passed in exercise of the review jurisdiction. Recourse to review petition in the facts and circumstances of the case was not permissible. The

aggrieved judgment debtors could have approached the higher forum through appropriate proceedings, to assail the order of Gupta, J. and get it set aside but it was not open to them to seek a "review of the order of petition. In this view of the matter, we are of the opinion that the impugned order of Sharma, J. cannot be sustained and accordingly accept this appeal and set aside the impugned order dated 6.3.1997."

7. The Hon'ble Apex Court in the case of **Inder Chand Jain(Dead) Through Lrs, Vs. Motilal (Dead) Through Lrs. Reported in (2009) 14 SCC 663** has been pleased to observe as under:-

10. It is beyond any doubt or dispute that the review court does not sit in appeal over its own order. A rehearing of the matter is impermissible in law or pronounced, it should not be altered. It is also trite that exercise of inherent jurisdiction is not invoked for reviewing any order.

8. Considering the observations of the Hon'ble Apex Court and the pleadings available on record, I do not find any reasons to interfere in the present review application. Accordingly the review application is dismissed. No order as to costs.

V.R. Agrawal
(Navneet Kumar)
Member (J)

*copy of order
sent at 12.14
proceed
in
03.12.14*
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