

This the 13th day of January, 2014

Hon'ble Sri Navneet Kumar , Member (J)
Hon'ble Ms. Jayati Chandra, Member (A)

Uma Shankar Yadav aged about 56 years son of Sri Ram Dulare Yadav
Ex-PA, Patranga R.S. Barabanki Division, Mah Gaura Patti, H.No.
3/19/141, Raizabad.

Applicant

By Advocate: Sri R.S. Gupta

Versus

1. Union of India through the Secretary, Ministry of Communication and LT. Cum D.G. Posts, Department of Posts, Dak Bhawan, New Delhi-110001.
2. Member (P), Postal Services Board O/o D.G. Post, New Delhi.
3. Chief Post Master General, U.P., Lucknow.
4. Director Postal Services o/o Chief Post Master General, U.P., Lucknow.
5. Senior Superintendent of Post Offices, Faizabad.

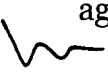
Respondents

ORDER (Under Circulation)

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

The present Review Application is preferred by the applicant u/s 22(3)(f) of AT Act, 1985 for reviewing the order dated 10th December, 2013 passed in O.A. No. 155 of 2006, passed by the Tribunal.

2. By means of the present O.A., the applicant has pointed out that one person namely Mahmood Ahmed was retained in service and the applicant was dismissed while the case of both the applicants is same. As alleged by the learned counsel for the applicant that in support of his arguments, he has submitted certain citations. While deciding the O.A., it is categorically pointed out by the Tribunal that one Mahmood Ahmed who was also charge sheeted was on different lapses and not of the charges leveled against the applicant and the penalty awarded to both the officials is in accordance with the gravity of charges leveled against them. While deciding the O.A, the Tribunal dealt with the



scope of interference by the Tribunal in regard to disciplinary matters. The contention raised in the review application are duly dealt with by the Tribunal while deciding the O.A. and the O.A. was decided on merit after considering all available material which was on record. It is clear that by means of the present review application, applicant wants to re-agitate the entire issue afresh and wants rehearing of the case.

3. As categorically pointed out by the Hon'ble Apex Court that 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 reported in 2008 (3)**

AI SLJ 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.

4. In the case of Satyanarayan laxminarayan Hegde and others, Vs. Mallikarjun Bhavanappa Tirumale reported in AIR, 1960 SC 137, the Hon'ble Apex Court has been pleased to observe as under:-

“ 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. As the above, discussion of the rival contentions show the alleged error in the present case is far from self evident and if it can be established, it has to be established, by lengthy and complicated arguments. We do not think such an error can be cured by a writ of certiorari according to the rule governing the powers of the superior court to issue such a writ. In our opinion the High Court was wrong in thinking that the alleged error in the judgment of the Bombay Revenue Tribunal Viz., that an order for possession should not be made unless a previous notice had been given was an error apparent on the face of the record so as to be capable of being corrected by a writ of certiorari.”

5. Inder Chand Jain(Dead) Through Lrs, Vs. Motilal (Dead) Through Lrs. Reported in (2009) 14 SCC 663

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.

11. Review is not appeal in disguised. J In Lily Thomas Vs. Union of India this Court held SCC P. 251, Para 56)

"56. It follows , therefore, that the power of review can be exercised for correction of a mistake but not to substitute a view. Such powers can be exercised within the limits of the statute dealing with the exercise of power. The review cannot be treated like an appeal in disguise."

6. Considering the facts of the case and law laid down by the Hon'ble Apex Court, we do not find any ground to interfere with the present review petition. Review petition lacks merit and as such it deserves to be dismissed. Accordingly, Review Petition is dismissed. No order as to costs.

J. Chandra
(Jayati Chandra)
Member (A)

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

o.k.
Copy of order HLS/-
Revised 13-1-14
16-1-14