

**CENTRAL ADMINISTRATIVE TRIBUNAL LUCKNOW BENCH
LUCKNOW**

**Review Application No. 332/00052 of 2014
In**

Original Application No. 317 of 2008

This, the 7th day of November, 2014.

**HON'BLE MR. NAVNEET KUMAR MEMBER (J)
HON'BLE MS. JAYATI CHANDRA, MEMBER (A)**

Kamlesh Chandra, aged about 60 years, son of Late Banshi Dhar, Resident of House No. E-52/20, Sector 11, Rajajipuram, Lucknow.

Applicant

By Advocate Sri Praveen Kumar.

Versus

1. Union of India through, the Cabinet Secretary (Post and Telegraph Department), Ministry of Telecommunication and P&T, New Delhi.
2. The Chief Post Master General, UP Circle, Lucknow.
3. The Director, Postal Services (HQ) UP Circle, Lucknow
4. The Sr. Superintendent of Post Office, Lucknow Division, 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. While preferring the Review Application on behalf of the applicant, it is pointed out that the Tribunal failed to appreciate the pleadings on records and there is no loss to the department since it was a case for encashment of NSC and money was not of Postal Department. Not only this, it is also alleged by the applicant that the complainant submitted that he has lost his purse on 6.1.2001 which consists 2 NSCs and apparently lodged his complainant on 19.1.2001 and also indicated that the inquiry officer came to the finding on the basis of the presumption. As such, the order dated 17.9.2014 is liable to be recalled and O.A. be restored to its original number in the interest of justice.

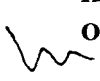
2. While deciding the O.A., the facts and pleadings available on record were duly considered. The scope and power of Tribunal to review

its decision has been elaborately laid down by the Hon'ble Apex Court in the case of **State of West Bengal and Others Vs. Kamal Sengupta and another reported in (2008) 8 SCC 612** after taking into account almost the entire case law on the subject of review. It has been held that an error which is not self evident and which can be discovered only by a long process of reasoning, cannot be treated as an error apparent on the face of record justifying exercise of power under Section 22 (3) (f) of AT Act. An erroneous decision cannot be corrected in the guise of exercise of power of review and the review cannot partake the character of an appeal. Not only this, review is not the remedy for the applicant to correct an erroneous judgment. The Tribunal has no power to review its judgment if there is no error apparent on the face of record. An attempt to re-agitate the issue is not permissible under Section 22 (3) (f) of the Administrative Tribunals Act, 1985.

7. In the 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."

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

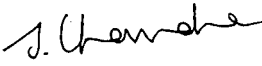
10. It is beyond any doubt or dispute that the review court does not sit in appeal over its own order. A rehearing of the matter is impermissible in law or pronounced, it should not be altered. It is also trite that exercise of inherent jurisdiction is not invoked for reviewing any order.

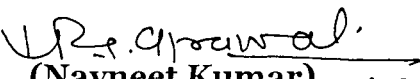
11. Review is not appeal in disguised. J In Lily Thomas Vs. Union of India this Court held@SCC P. 251, Para 56)

"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."

9. In another case of Lily Thomas Vs. Union of India and Others reported in (2013) 2 SCC (L&S) 811 it has been held that the power of review can be exercised for correction of a mistake.

9. 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.


(Ms. Jayati Chandra)
Member (A)


(Navneet Kumar)
Member (J)