

Central Administrative Tribunal, Lucknow Bench, Lucknow

Review Application No. 332/00055/2014 in

Original Application No. 205/2008

Reserved on 6.7.2015

Pronounced on 09/7/2015

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

Anjali Tewari aged about 53 years wife of Rajeev Tewari r/o C-43/8, RDSO, Manaknagar, Lucknow.

Applicant

By Advocate: Sri A.Moin

Versus

Union of India through

1. Secretary, Ministry of Information and Broadcasting, Copernicus Marg, New Delhi.
2. Prasar Bharti Broadcasting Corporation of India, New Delhi through its Director General.
3. Station Director, Prasar Bharti Broadcasting Corporation of India, Doordarshan Kendra, Lucknow.

Respondents

By Advocate: XXXX

ORDER

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

The present Review Application is preferred by the applicant u/s 22(3)(f) of AT Act, 1985 read with Rule 17 of CAT (Procedure) Rules 1987 for reviewing the order dated 8.7.2014 passed in O.A.No. 2005/2008, through which the Tribunal dismissed the O.A.

2. The grounds taken in the review application are that the applicant's joining as Production Assistant is 6.10.1994 which was confirmed by the Tribunal in the earlier order dated 5th November 2001 passed in O.A.No. 500/1995 and the said observation has attained finality since the same has not been challenged before any higher court. Apart from this, it is also indicated by the learned counsel for applicant that in para 4.8 of the O.A. it is categorically indicated by the applicant that she attended the office from 6.10.1994 to 24.10.1994.

The learned counsel for applicant has indicated that Tribunal has not

considered the contention raised by the applicant that her joining is duly entered in diary maintained by the office of Respondent No. 3 at Sl. No. 2650 and the applicant attended the office from 6.10.1994 to 24.10.1994 and the same forms the judicial findings in the earlier judgment dated 5.11.2001.

3. While deciding the O.A., it is observed by the Tribunal that the applicant failed to indicate any order through which it can be established that applicant joined the post of Production Assistant on 6.10.1994 even if it is mentioned in the earlier order dated 5.11.2001. This fact is duly argued by the applicant and by means of the present Review Application, the applicant wants to re-open the entire issue afresh which is not permitted under the review jurisdiction.

4. 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 confined 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.

5. In another case of **Parson 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."

6. 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.

7. Review is not appeal in disguised. **In Lily Thomas Vs. Union of India , the Hon'ble Apex Court held**

"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."

8. Considering the observations of the Hon'ble Apex Court as well as facts and circumstances of the case, we do not find any reason to review the order dated 8.7.2014. Accordingly, the Review Application is dismissed. No order as to costs.

J. Chandra
(Jayati Chandra)
Member (A)

N.R. Chawla
(Navneet Kumar)
Member (J)

HLS/-