

Central Administrative Tribunal, Lucknow Bench, Lucknow

Review Application No. 332/00001/2015 in

Original Application No. 183/2008

This the 19th day of January, 2015

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

J.M. Prasad aged about 58 years son of late Sri H. Prasad, resident of 40 Kailash Nagar, Khargapur, Gomti Nagar, Lucknow.

Applicant

By Advocate: Sri Dharmesh Sinha

Versus

1. Union of India through the Secretary, Ministry of Textiles, Udyog Bhawan, New Delhi.
2. The Secretary (Textiles), Ministry of Textiles, Udyog Bhawan, New Delhi.
3. Development Commissioner (Handicraft), West Block No. VII, R.K. Puram, New Delhi-110066.
4. Director, Central Region, Office of the Development Commissioner (Handicraft) Kendriya Bhawan, 7th Floor, Aliganj, Lucknow.

Respondents

By Advocate: None

ORDER (Under Circulation)

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 24.12.2014 passed in O.A. No. 183 of 2008, passed by the Tribunal.

2. The O.A. was finally heard and decided by the Tribunal vide order dated 15th April, 2014. The applicant has categorically taken a ground in the review application that second stage advice of the CVC is not given to the applicant, as such the decision of the authorities is against the principle of natural justice. It is also pointed out by the applicant that the disciplinary authority himself was not sure as to whether the second stage advice was necessary to be furnished to the charged officer or not. While deciding the O.A., the Tribunal has categorically indicated the rule position which provides that the second stage advice of the CVC is required to be obtained in respect of Group

'A' officer and not in respect of Group 'B' officer. It is an admitted fact that the applicant is working as a Group 'B' officer, therefore second stage advice is not required in the case of the applicant, as such there is no error apparent on the face of record and it does not require to be reviewed by the Tribunal.

3. By means of the present review application, the applicant wants to re-open the entire issue afresh, which is not permissible as per law.

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.

4. **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."

5. 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. "

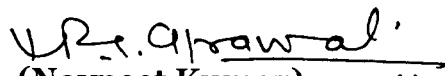
6. In the case of Union of India v. Tarit Ranjan Das, 2004

SCC (L&S) 160, observed as under:

“13. The Tribunal passed the impugned order by reviewing the earlier order. A bare reading of the two orders shows that the order in review application was in complete variation and disregard of the earlier order and the strong as well as sound reasons contained therein whereby the original application was rejected. The scope for review is rather limited and it is not permissible for the forum hearing the review application to act as an appellate authority in respect of the original order by a fresh order and rehearing of the matter to facilitate a change of opinion on merits. The Tribunal seems to have transgressed its jurisdiction in dealing with the review petition as if it was hearing an original application. This aspect has also not been noticed by the High Court.”

7. In view of the observations of the Hon'ble Apex Court as well as facts of the case, we do not find any reason to interfere in the present review application, accordingly review application is dismissed. No order as to costs.


(Jayati Chandra)
Member (A)


(Navneet Kumar)
Member (J)

HLS/-

OR
Copy of order
Dated 19-1-15
for record
21-1-15