

CENTRAL ADMINISTRATIVE TRIBUNAL, LUCKNOW BENCH

R.A. 85/04

in

O.A. No. 311/04

Lucknow this the 21st day of March, 2005

HON. SHRI S.P. ARYA, MEMBER(A)

HON. SHRI M.L. SAHNI, MEMBER (J)

Abhai Shanker

...Applicant

By Advocate Shri T.B. Singh

Versus

Union of India and others

...Respondents

By Advocate Shri S.M. S. Saxena

Order

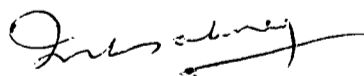
By Shri M.L. Sahni, Member(J)

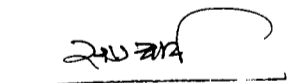
1. The applicant has filed above Review Application against the judgment and order dated 8.9.04 passed in O.A. No311/04 by which the O.A. was dismissed and the prayer of the applicant for setting aside the error sheet dated 5/1996 and Coaching Education list dated Nil issued by Accounts Officer and the direction to respondents to stop recovery from the salary of the applicant was rejected.
2. The applicant has taken interalia the grounds that the applicant could not file order dated 17.3.03 passed by respondent No.3 whereby the recovery of 34,600/- was ordered to be recovered from the applicant and thus the cause of action arose to the applicant at Lucknow, and as such the Original application was very well maintainable before this Tribunal
3. The respondents have filed Counter Affidavit stating that the R.A. is not maintainable as there was no discovery of any new and important evidence which were not in the knowledge of the applicant. The learned counsel for the respondents have, in this regard referred to the case of State of Union of India vs. Terit Ranjan Das (2004(2) ATJ, 190 wherein it has been held that the Scope of 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 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 Original Application.

4. The scope of review is well settled in *Meera Bhanja (Smt.) vs. Nirmala Kumari Choudhury (Smt.)* (1995) 1 SCC, 170 and *Parsion Devi and others vs. Sumitri Devi and others* (1997) 8 SCC, 715. It was laid down in these judgments by the Hon'ble Supreme Court that the review proceedings are not by way of appeal and have to be strictly confined to the scope and ambit of order 47, rule 1 of the C.P.C. The Review has to be entertained only on the ground of error apparent on the face of record and not on any other ground. The error apparent on the face of record must be such an error which must strike one on mere looking at the record and would not require any long drawn process of reasoning on points where there may conceivably be two options. It is further stated in *Parsion Devi* (supra) that there is a clear distinction between the erroneous decision and error apparent on the face of record; while the first can be corrected by the higher forum, the latter only can be corrected by exercise of review jurisdiction. The review petition has a limited purpose and cannot be allowed to be "an appeal in disguise." Reference may also be made to a recent judgment in (2003) 11 SCC, 568 in *re Union of India & others vs. Tarit Ranjan Das* on the subject.
5. In view of the above dictates of law clearly laid down by the Hon'ble Supreme Court, we find ourselves unable to be persuaded by the grounds taken in the review, that the errors pointed out in the order are such which entitle the applicant to get impugned order recalled for being reheard. Hence the Review petition is found meritless and is dismissed.


(M.L.SAHNI)
Member(J)


(S.P. ARYA)
Member(A)

s.a.