

By Circulation

CENTRAL ADMINISTRATIVE TRIBUNAL

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Lucknow

REVIEW APPLICATION NUMBER 29 OF 2005

IN

ORIGINAL APPLICATION NUMBER 440 OF 1998

LUCKNOW THIS, THE 04TH DAY OF JULY 2005

HON'BLE MR. M. L. SAHNI, MEMBER (J)

HON'BLE MR. S. C. CHAUBE, MEMBER (A)

B. B. Srivastava Applicant

(By Advocate: Sri R.S. Gupta)

V E R S U S

Union of India and Ors. Respondents

(By Advocate : Prashant Kumar)

O R D E R

By Hon'ble Mr. S. C. Chaube, Member (A)

The present Review Application has been filed by the Review applicant seeking review of our order dated 11.04.2005 passed in O.A. No.440/1998.

2. The review applicant through Review Petition No.29/2005 has also prayed for listing of the case for re-hearing.

3. I have gone through the order dated 11.04.2005 and do not find any error apparent on the face of record or any new and important material which even after exercise of due diligence was not available with the review applicant. On the other hand, the applicant in paragraph 4.6 of the original application had himself admitted that a copy of the enquiry report was supplied to him under show cause notice No.A-209/EDA dated 16.07.1996 for sending representation against the proceedings of enquiry authority. Thus, any

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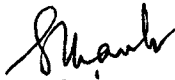
inference at this stage of not affording reasonable opportunity to the applicant to defend himself is squarely untenable. Similarly it is not for the Tribunal to go into adequacy or inadequacy of evidence forming basis for the decision of the disciplinary or appellate authority since this would amount to re-appreciation of evidence and interference with the finding of fact arrived during departmental proceedings.

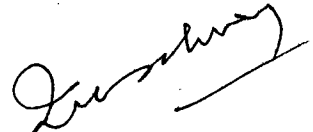
4. The scope of review under Section 22(3)(f) of the Administrative Tribunals Act 1985 read with order XLVII, Rules (1) and (2) of Civil Procedure falls in narrow compass. If the Review applicant is not satisfied with the order passed by the Tribunal, the remedy would lie elsewhere. Through this review application the applicant seeks to re-argue the matter which is not permissible under the law. We are inclined to refer to the following extract from the Judgment of the Hon'ble Supreme Court in the case of Union of India Vs. Tarit Ranjan Das reported in 2004 SCC (L&S) 160 observed as under:

"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".

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5. In view of the above, the Review Application is dismissed in circulation.


Member (A)


Member (J)

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