

**CENTRAL ADMINISTRATIVE TRIBUNAL
LUCKNOW BENCH**

Review Application No.41/2005.

In

Original Application No. 526 of 2005 / 60122

Lucknow, this the day of 12th July, 2005.

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

HON'BLE SHRI K.B.S. RAJAN, MEMBER (J)

Smt. Pushpa Dixit, aged about 69 years, wife of Late Shri Kashi Nath, Dikshita, resident of C-11/1. River Bank Colony, Lucknow.

...Applicant.

By Advocate: Shri R.C. Singh.

Versus.

- 1. Union of India, through the Secretary, Ministry of Home, North Block, New Delhi.**
- 2. State of U.P., Through Principal Secretary Home, Sachivalaya, Annex, Lucknow.**

...Respondents.

By Advocate: None.

ORDER (Under Circulation Rules)

BY SHRI K.B.S. RAJAN, MEMBER (J).

1. The review application has been filed, *inter alia* on the following grounds:

- (a) Inadvertently the specific relief was not claimed for the grant of interest on the due amount.**
- (b) The deceased husband of the applicant had requested for payment of interest on the amount of arrears.**
- (c) At the relevant time the pay scale was very low and if the amount due during the period from 1964 to 1983 is not paid without interest the same shall entail grave injustice and heavy financial loss to the applicant.**

[Signature]

- (d) Interest at the then prevailing rate is admissible where there is inordinate delay in making payment.
- (e) It is well settled in law that this Hon'ble Tribunal may mould the relief claimed in appropriate cases.
- (f) The judgment and order dated 01-06-2005 is liable to be reviewed and a direction is also liable to be issued for payment of compound interest at the then prevailing rates on the amount due and admissible to the applicant.

2. It is appropriate, at the very outset, to express the settled position on review as held by the Apex Court. Vide the judgment in the case of ***Northern India Caterers (India) Ltd. v. Lt. Governor of Delhi, (1980) 2 SCC 167***, the Apex Court at page 173 held :

A plea for review, unless the first judicial view is manifestly distorted, is like asking for the moon. A forensic defeat cannot be avenged by an invitation to have a second look, hopeful of discovery of flaws and reversal of result.

3. First the Rule on Review, as discussed by the Hon'ble Supreme Court in ***Ajit Kumar Rath v. State of Orissa, (1999) 9 SCC 596***, where, after quoting the provisions of Sec 22(3)(f) as below, the Apex Court held at page 608 at Para 30 as under- :

"22. (1)-(2) ***

(3) A Tribunal shall have, for the purposes of discharging its functions under this Act, the same powers as are vested in a civil court under the Code of Civil Procedure, 1908 (5 of 1908), while trying a suit, in respect of the following matters, namely—

(a)-(e) ***

(f) reviewing its decisions;

(g)-(i) ***

30. ***The provisions extracted above indicate that the power of review available to the Tribunal is the same as has been given to a court under Section 114 read with Order 47 CPC. The power is not absolute and is hedged in by the restrictions indicated in Order 47. The power can be exercised on the application of a person on the discovery of new and important matter or evidence which, after the exercise of due diligence,***

was not within his knowledge or could not be produced by him at the time when the order was made. The power can also be exercised on account of some mistake or error apparent on the face of the record or for any other sufficient reason. A review cannot be claimed or asked for merely for a fresh hearing or arguments or correction of an erroneous view taken earlier, that is to say, the power of review can be exercised only for correction of a patent error of law or fact which stares in the face without any elaborate argument being needed for establishing it. It may be pointed out that the expression "any other sufficient reason" used in Order 47 Rule 1 means a reason sufficiently analogous to those specified in the rule.

31. *Any other attempt, except an attempt to correct an apparent error or an attempt not based on any ground set out in Order 47, would amount to an abuse of the liberty given to the Tribunal under the Act to review its judgment.* (Emphasis supplied).

4. When the above provisions of law are telescoped upon the facts of the case, if at all there could be any ground that may to some extent be proximate to the parameters laid down in the Rules, it is about the claim made by the husband of the applicant for interest when he approached the authorities in the wake of the judgment of the Supreme Court in his case. This alone cannot become the passport to the applicant to travel through the Review jurisdiction. For, first, apparently as well as admittedly, the applicant did not claim any interest in the O.A. Thus, that she had to claim interest was not in her mind at all. Secondly, the references she had furnished now cannot fall within the term, "discovery of new and important matter or evidence which, after the exercise of due diligence, was not within his knowledge or could not be produced by him at the time when the order was made.". Absence of due diligence is manifest when the factum of interest was not mentioned in the OA nor has there been any mention in the



pleadings before the Tribunal that the applicant despite her earnest attempt could not lay hands over the documents now annexed. It is only after the receipt of the judgment that the applicant had taken the pain of going through the documents and locating the same. Thus this is a mere after thought of the applicant who had 'missed the bus'.

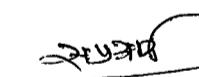
5. None of the other grounds is any where near the parameter of Section 22(3)(f) of the Act. If these grounds are considered in Review, it would be diagonally opposite to the firm view of the Apex Court in the Northern India Caterers (India) Ltd (*supra*).

6. The Review application being devoid of merits, is dismissed in circulation.

7. The applicant has moved another M.A. 1355/05 for having the review application heard in open court, Rule 17(3) of the CAT (Procedure) Rules, 1987. In view of the decision as contained above, the case does not merit hearing in open court. Hence, the M.A. is also dismissed.


(K.B.S. Rajan)

Member (J)


(S.P. Arya)

Member (A)

Copy of order
Prepared on 13th/05
12/7/05