

Central Administrative Tribunal Lucknow Bench Lucknow

Review Application No. 22/2007 In O.A. 125/2007.

This, the 10<sup>th</sup> day of August 2007.

Hon'ble Mr. M Kanthaiah, Member (J)

Atul Shyam Trivedi, aged about 46 years, son of Late Shri Radhey Shyam Trivedi resident of House No. 210, Bania Mohal, Sadar Bazar, Lucknow-226002 (presently working under Commander Works Engineer, Lucknow-226002)

Applicant.

By Advocate Shri R. C. Singh

Versus

1. Union of India, through the Secretary, Ministry of Defence, Government of India, New Delhi.
2. Engineer-in-Chief, Military Engineer Service, Engineer-in-Chief Branch Army Headquarters, Kashmira House, New Delhi-110001.
3. Chief Engineer, Headquarters Central Command, Lucknow.
4. Chief Engineer, Chief Engineer Lucknow Zone, Lucknow.
5. C.W.E., 229, M.G. Road, Lucknow.

Respondents.

Order (By Circulation)

By Hon'ble Mr. M. Kanthaiah, Member (J)

The applicant has filed this review application under Section 22(3) (f) of the Administrative Tribunal Act, 1985, read with Rule 17 of the Central Administrative Tribunal (Procedure) Rules, 1987 for review /modification of the judgment and order dated 30.7.2007 passed in O.A. No. 125/2007 by this bench, on the following grounds:



1. The Tribunal has failed to appreciate that the applicant was not the longest stayee and he had not submitted his choice stations as required under paragraph 38 of the transfer policy.

II The Tribunal has failed to appreciate that the discrimination in the matter of the transfer the applicant could not be justified by subsequent transfer of the longest stayee on 29.6.2007 and in support of it he relied on the judgment reported in AIR 1978 SC 851.

2. In support of his claim for review of the order of the Tribunal dated 30.7.2007, he relied on the decision of Apex Court in the case of Board of Control for Cricket India Vs. Netaji Cricket Club reported in 2005 AIR Supreme Court Weekly 230.

3. Along with this review application, the applicant also filed another M.A. 1802/2007, to hear the review petition in open court by granting exemption for disposal by circulation as contemplated under Rule 17 (3) of the Central Administrative Tribunal (Procedure) Rules 1987 and further stated that important question of law and interpretation are involved, which has to hear by division bench. He also filed another M.A. 1803/2007, seeking interim relief, during the pendency of the review application.

4. Before touching the issue in respect of this review application and the miscellaneous applications, the brief facts of the case are required for refreshing the matter.

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5. The applicant challenged the impugned transfer order dated 24.6.2006 (Annexure 1) and other consequential orders dated 1.7.2006 (Annexure-2) dated 28.2.2007 (Annexure-3), transferring him from C.W.E. Lucknow to C.W. Bhopal Zone on the ground that it has been effected against the transfer policy, without touching longest stayees and when <sup>made</sup> representation bringing such omissions on the part of the respondents, it was not properly considered. After completion of pleadings and on hearing the O.A. was disposed of on 31.7.2007 with a finding that there are no merits in the claim of the applicant for quashing impugned transfer order.

6. Now the applicant has come up with this application for review of the order of the Tribunal on the ground that his contentions in challenging impugned transfer order and subsequent orders have not been properly appreciated. Further he also raised a new plea that the transfer of the applicant could not be justified by subsequent transfer of the longest stayee on 29.6.2007 and in support of it he relied on the decision of Apex Court reported in AIR 1978 SC 851 Mohinder Singh Gill and Others versus Chief Election Commissioner and Others.

7. Admittedly, the scope of review application is very limited and have to be strictly confined to the scope and ambit of order 47 Rule 1 of the CPC which says that the review is to be entertained only on the ground of error apparent on the face of record or on account of some mistake or discovery of new and important matter and not any other ground.

8. But by way of this review application, the applicants wants reappraisal of the material on record on the ground that this Tribunal has not appreciated his contentions properly. By way of M.A. 1802/2007, he sought hearing application by dispensing the stage of circulation on the ground that the judgment under review raises important question of law and interpretation are involved, which has to be decided by a division bench. The applicant's claim for review is not based either on the ground of error apparent on the face of the record or on account of some mistake and also not on the ground that any fact has been detected as required under order 47 Rule 1 of CPC.

9. Thus from such pleas of the applicant, he wants to expand the scope of the forum for hearing the review application to act as an appellate authority in respect of the original order, and such claim of the applicant is extremely beyond the scope of review as contemplated under order 47 rule 1 of the C.P.C. Similarly in respect of transfer of longest stayees subsequent to his transfer and its effects the applicant neither raised any objections or dispute, while advancing arguments during final hearing and the same has been raised as one of the ground in this review application. But such opportunity was though available not raised and no reasons are also assigned and thus it is not open to the applicant to seek review of the order and judgment of this Tribunal on such ground.

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10. The learned counsel for the applicant relied on the following decision of Apex Court on the ground that while exercising review jurisdiction, the subsequent events may be taken into consideration for the purpose of rectifying its own mistake. [AIR 2005, S.C. 592- Board of Control for Cricket India Vs. Netaji Cricket Club and others]. But no such circumstances or reasons are appearing in the instant case, to entertain the claim of the applicant for review of the order of this Tribunal dated 30.7.2007 and as such the said decision is not helpful to the applicant.

11. In view of the above circumstances, the claim of the applicant to review the order of this Tribunal dated 30.7.2007, is beyond the scope of review as contemplated under order 47 Rule 1 CPC and thus there are no merits in his claim.

12. The applicant also ~~relied~~ <sup>filed</sup> a petition M.A. 1802/2007, to hear the review application in the open court, by dispensing under circulation as contemplated under Rule 17(3) of the Central Administrative Tribunal (Procedure) Rules 1987. But there are no exceptional circumstances to entertain such request of the applicant, to dispense circulation and to hear the review application in the open court and further by referring it to division bench and thus there are no merits in such claim of the applicant, hence the same is rejected.

13. Under the above circumstances, the claim of the applicant for review the order of this Tribunal dated 31.07.2007 is dismissed in circulation only.

M. Kanthaiah  
Member (J)

09.08.2007

V.

~~OR~~  
Copy of order  
dated 9.8.2007  
Received  
13.8.2007