

Central Administrative Tribunal Lucknow Bench Lucknow.

Review Application No. 42/2008 In O.A. 357/2001.

Lucknow, this the 21st day October, 2008

**Hon'ble Mr. M. Kanthaiah, Member (J)
Hon'ble DR. A. K. MISHRA, MEMBER (A)**

Vinod Kumar Shukla aged about 36 years Ex. EDBPM Raibajha S/o Rangi Lal Shukla R/o Village & P.O. Ribjha Tehsil Nanpara District Bahraich.

Applicant.

By Advocate: Sri R. S. Gupta.

Versus

1. Union of India through the Secretary Ministry of Communication Department of Post Dak Bhawan Sansad Marg, New Delhi.
2. Postmaster General Gorakhpur.
3. Director Postal Gorakhpur.
4. Superintendent of Post Offices, Bahraich.

Respondents.

Order (Under Circulation)

By Hon'ble Dr. A. K. Mishra, Member (A)

This application has been made for a review of the order-dated 18.9.2008 dismissing the O.A. No. 357/2001. No clear ground has been mentioned to suggest that there was any error apparent on the face of the record. The settled position of law on the subject of the review is that it should not be treated as an appeal. In M/s Thungabhadra Industries Ltd. Vs. Govt. of Andhra Pradesh reported in AIR 1964 Supreme Court 1372, it was held, "xxx A review is by no means an appeal in disguise, whereby an erroneous decision is reheard and corrected, but lies



only for patent error. Where without any elaborate argument, one could point to the error and say here is a substantial point of law which stares one in the face, and there could reasonably be no two opinions entertained about it; a clear case of error apparent on the face of the record would be made out."

2. The Hon'ble Apex Court in the case of K.G. Derasari and Another Vs. Union of India and Others, reported in 2002 SCC (L&S) 756 observed that any attempt, except an attempt to correct an apparent error or attempt not based on any ground set out in order 47, would amount to an abuse of liberty given to the Tribunal under the Act to review its judgment. Order 47 CPC says that a review can be admitted only if fresh relevant facts which were not within the knowledge of the party and could not be produced by him at the time when the decree was made are brought forward, or to rectify a mistake, or error apparent on the face of the record.

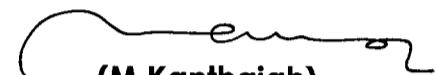
3. The present review application does not reveal any such new facts, nor does it identify a clear error apparent on the face of the record. In paragraph 4 it speaks of Financial Rule 54 which has been dealt with extensively in paragraph 4 of the order of this Tribunal and it has been rightly held that the FR 54 does not lend any support to the claim of the applicant for release of full salary during the period he was put off from duty. Neither does the discussion of the penalties reveal any error or misapplication of law. Relevant Rule says that major penalties should not be imposed without giving an opportunity of being heard to the delinquent employee. In this case, the penalty was finally moderated to a minor one, but full opportunities were given to the applicant. Full-fledged enquiry was held and a copy of the enquiry report was furnished



to the applicant. It was rightly held that the proceedings did not suffer from any legal infirmity.

4. Review application cannot be admitted if there could be two opinions on the merits of the case. The right course of the action for the applicant in such a situation is to go for a writ application against the order passed. We find no merit in this review application, which is accordingly dismissed.


(Dr. A. K. Mishra)
Member (A)


(M. Kanthaiah)
Member (J)

v.

ok
copy to ambar
dated 21-10-1970
for you
26-11-1970