

**Central Administrative Tribunal Lucknow Bench Lucknow.**

**Review Application No. 38/2009**

**In**

**Original Application No: 33 /2009**

This, the 7/15 day of September, 2009

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

Narendra Kumar Pandey, aged about 69 years, son of Late Shri Jeevat Vandhan Pandey, resident of Housel No. 606, Azad Mohal, Sadar Bazar, Lucknow (lastly employed as Lower Division Clerk in the Central Command Stationery Depot, Lucknow-226002).

**Applicant**

**By Advocate Sri R.C. Singh.**

**Versus**

1. Union of India, through the Secretary, Ministry of Defence, New Delhi.
2. Major General Army Ordnance Corps, Headquarters Central Command, Lucknow.
3. Commanding Officer, Central Command Stationery Depot, Lucknow.
4. Principal Controller of Defence Accounts (Pensions), Allahabad.
5. Joint Controller of Defence Accounts (Funds), Meerut.

**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 7.8.2009 of this Tribunal in O.A. 33/2009 (Narendra Kumar Pandey Vs. Union of India & Others).

2. The grounds taken in this Review Application are that the Tribunal did not appreciate that no interim order was granted by the Hon'ble High Court in the Writ Petition No.792 (S/B) of 2000; that the respondents were bound to comply with the judgment and order dated 23.12.1999 of this Tribunal in O.A. No. 171/1994; that no cognizance was taken of judgment and order dated 7.8.2009 of the Hon'ble High Court in Special Leave Appeal No. 327/2007; that there was misconception of the judgment and order of the High Court in the Wit Petition No. 792/2000.



3. The main ground taken by the applicant seems to be that there was incorrect appreciation of the order of the High Court by this Tribunal. The applicant has cited the judgment of the Supreme Court in the case of Board of Cricket, India and another Versus Netaji Cricket Club and others, 2005 AIR SCW 230 to argue that a misconception of fact or law on the part of the Tribunal would be a sufficient cause for review. I went through the order dated 28.9.2007 of the High Court regarding payment of retiral dues of the applicant. This order has been reproduced verbally in the impugned order of this Tribunal. The High Court directed the respondents to pay the retiral dues within two months from the date of supply of a certified copy of their order. There is no misconception about the direction of the High Court which is very clear and self evident from their order quoted in the impugned judgment of this Tribunal. Therefore, the allegation that there was misconception in understanding this direction is without any basis.

4. Further, the scope of review of the Tribunal of its own order has been reexamined by the Supreme Court in its judgment in State of West Bengal and Others Vs. Kamal Sengupta and Another reported at (2008) 8 SCC 612. The relevant portion of this judgment is extracted below:

*"Where a review is sought on the ground of discovery of new matter or evidence, such matter or evidence must be relevant and must be of such a character that if the same had been produced, it might have altered the judgment. Mere discovery of new or important matter or evidence is not sufficient ground for review *ex debito justitiae*. The party seeking review has also to show that such additional matter or evidence was not within the knowledge and even after exercising of due diligence, the same could not be produced before court earlier.*

*The term "mistake or error apparent" by its very connotation signifies an error which is evident *per se* from the record of the case and does not require detailed examination, scrutiny and elucidation either of the facts or the legal position. If an error is not self-evident and direction thereof requires long debate and process of reasoning, it cannot be treated as an error apparent on the face of the record for the purpose of Order 47 Rule 1 CPC or Section 22 (3) (f) of the Act. To put it differently, an order or decision or judgment cannot be corrected merely because it is erroneous in law or on the ground that a different view*

*could have been taken by the Court/Tribunal on a point of fact or law. While exercising the power of review, the court/,,tribunal concerned cannot sit in appeal over its judgment/decision.”*

5. It is clear that the Tribunal cannot sit in appeal over its own judgment. If the applicant is aggrieved with the order of the Tribunal, he may seek redress at appropriate judicial forum.

6. In the result, this Review Application is dismissed.

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

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