

Central Administrative Tribunal, Lucknow Bench, Lucknow

Review Application No. 8/2011 in O.A. No. 139/2005

This the 18 th day of November, 2011

Hon'ble Shri Justice Alok Kumar Singh, Member (J)

Hon'ble Sri S.P. Singh, Member (A)

Kanchan Lal Kureel, aged about 75 years son of late Mahabir, r/o D-2/401-B, Sector D, LDA Colony, Kanpur Road, Lucknow

Applicant

By Advocate: Sri A.P.Singh

Versus

1. Union of India through the Chairman, Railway Board, Baroda House, New Delhi.
2. The General Manager (P)/Hd.Qr. Office, Baroda House, New Delhi.
3. The Jt. Director Establishment (D&A), Railway Board, New Delhi.
4. Divisional Railway Manager, Northern Railway, Lucknow
5. Senior Divisional Mechanical Engineer, Northern Railway, Lucknow.

Respondents

ORDER (By Circulation)

By Hon'ble Sri Justice Alok Kumar Singh, Member (J)

This Review Application is directed against the order passed by this Tribunal on 10.10.2011 in O.A. No.139/2005.

2. We have gone through the Review Application and the order passed by this Tribunal in O.A. No. 139/2005 on 10.10.2011 which is sought to be reviewed.
3. The scope of review under section 22 (3)(f) of the Administrative Tribunal Act, 1985 read with Order XLVII Rule (1) and (2) of the CPC lies in a narrow campus. A review can be made only when there is an error apparent on the face of record or on discovery of any new and important material which even after exercise of due diligence was not available with the applicant. Any erroneous decision and a decision which can be characterized as vitiated by "error apparent" has been distinguished by Hon'ble Apex Court by bench comprising three Hon'ble Judges in the case of *M/s Thungabhadra Industries Ltd. Vs. Govt. of Andhra Pradesh reported in AIR 1964 Supreme Court, 1372*. In this case, it was laid down that "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

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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."

4. We have thoroughly perused the entire review application as also the order sought to be reviewed. In our opinion, no error apparent on the face of record could be indicated in the entire review application. Similarly, no discovery of any new and important material could be shown which even after exercise of due diligence was not available with the applicant. As clearly mentioned in para 6 of the final order of this Tribunal dated 10.10.2011, during the course of arguments, from the side of the applicant, the only emphasis was laid on the point that impugned order imposing penalty of 25% cut in pension was passed without supplying the report of the UPSC and therefore, in view of preposition of law laid down in the case of Union of India and others Vs. S.K. Kapoor reported in (2011) 4 Supreme Court Cases, 589 and S.N. Narula Vs. Union of India (2011) 4 SCC 591, the impugned order is bad in the eyes of law. From the other side, it was submitted that the case of S.K. Kapoor has no application because the impugned order was not passed after relying the UPSC report/ advice. Thereafter, this Tribunal dealt upon this point at length in subsequent paragraphs 8 to 13 running into more than 3 pages and finally arrived to a conclusion against the applicant and therefore, dismissed the O.A. In the present review application, in para 4, the aforesaid case laws of S.K. Kapoor and S.N. Narula have been mentioned along with one or two other cases. But as mentioned above, no other cases were referred at the time of hearing. It cannot be said that those two other case laws were not in the knowledge of the applicant's counsel or after due diligence, the same could not have come within his knowledge. Otherwise also, once the aforesaid latest two Supreme Court cases were relied upon and the same were discussed at length, then one or two other case laws on the same point have no significance. Any photocopies of the remaining two cases mentioned in para 4 of the Review Petition has also not been annexed to enable this Tribunal to go through the


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same, if those are really relevant and have some significance, over and above the aforesaid two Supreme Court Cases.

5. Thus, we do not find any error apparent on the face of record or any discovery of new and important material which even after exercise of due diligence was not available. As laid down by the Hon'ble Supreme Court in the case of *M/s Thungabhadra Industries Ltd (Supra)*, a review application is by no means an appeal in disguise where a final decision should be reheard and corrected. It lies only for patent error, which we fail to find any. In this case law, it was also laid down that it is only where without any elaborate arguments, 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, then a clear case of error apparent on the face of the record would be made out. But no such error could be pointed out in the entire review petition as discussed above. Therefore, the request made in the review petition to give an opportunity to the applicant for re-hearing as mentioned in para 8 of the review petition as also in the separate M.P. No.2828/2011 is meaningless and hence cannot be allowed.

6. In view of the above, the aforesaid M.P. and also the review petition are rejected in circulation.


(S.P. Singh) 18.11.11
Member (A)


(Justice Alok Kumar Singh) 18.11.11
Member (J)

HLS/-

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copy of order
dated 18-11-11
by hearing
18-11-2011