

**Central Administrative Tribunal Lucknow Bench
Lucknow**

Review Application No.10/2011

In

Original Application 407/2005

Lucknow, this the 6th day of January, 2012

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

Union of India and othersApplicants
By Advocate Sri R. Mishra.

Versus

Satish ChandraRespondent

Order (Under Circulation)

By Hon'ble Shri S.P.Singh, M(A)

1. This Review Application is instituted against the judgment and order dated 16.9.2005 in O.A. 407/2005.

2. I have gone through the Review Application and the order passed by this Tribunal in O.A. No. 407/2005 on 16.9.2005 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 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 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." **In 2002 Supreme Court Cases (L&S) 756 in the case of K.G. Derasari and Another Vs. Union of India and others**, it was observed by the Apex Court that any attempt, except to 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. The Tribunal cannot proceed to re-examine the matter as if it is Original Application before it in the light of the ratio given in **Subhash Vs. State of Maharashtra and other reported in AIR 2002 Supreme Court Cases, 2537**.

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4. There is also a miscellaneous application No. 4005/2011 for condonation of delay in filing of the review application. This review application has been filed on 15.12.2011 seeking review of the judgment and order dated 16.9.2005 in O.A. No. 407/2005. Therefore, on the ground of inordinate delay in filing of the review application alone, this miscellaneous application No. 4005/2011 is liable to be rejected because the inordinate delay has not been satisfactorily explained.

5. The order dated 16.9.2005 is as under:-

"Order (Oral)

By Hon'ble Sri Shanker Raju, Member (J)

1. Heard the Counsel.

2. In the light of the decision of the apex court in the case of India Vs. R. N. Ayare (2004, SCC (L&S), 649 where it is sated that the casual worker if working, government is precluded from allotting the work to a contractor unless the department is exempted from purview of abolition of Contractual Labor Act. The applicant who had been reinstated on daily wages in pursuance of directions issued in O.A.508/01, on 11.1.02 his grievances is that the respondents changed the condition of service detrimental to the interest of the applicant.

3. In the light of the above decision, this O.A. is disposed of with the direction that if the department is not exempted in any manner from the purview of Contractual Labor Act, status of the applicant would not be disturbed and he would be allowed to work with the respondents subject to rules and instructions on the subject. No costs."

6. From perusal of the review application, there does not appear to be any apparent error on the face of record or discovery of any new and important material, which was not available with the applicant earlier even after exercise of due diligence.

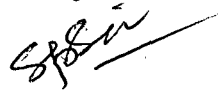
7. The principle of law laid down by the Hon'ble Apex Court in the aforesaid case of **M/s Thungabhadra Industries** (Supra) and **K.G. Derasari** (Supra), review cannot be sought merely for a fresh hearing or arguments or correction of erroneous view taken earlier. If the applicant is not satisfied with the orders passed by the Tribunal, remedy lies elsewhere. The scope of review is very limited and it is not permissible for the Tribunal to act as an appellate authority in respect of original order passing a fresh order and re-hearing of the matter to facilitate a change of opinion on merits. The same principle was laid down in the case of **Union of India Vs. Tarit Ranjan Das** 2004 SCC (L&S) 160.



8. In view of the above, this review application deserves to be dismissed in circulation.

9. Moreover, the review application u/s 22(3)(f) of AT Act, 1985 can be filed within 30 days from the date of receipt of copy of order sought to be reviewed as prescribed under Rule 17 of CAT (Procedure) Rules, 1987. This review application has not been filed within time as stated in Para - 4 above. On account of this reason also, the review application is liable to be rejected.

10. In view of the above, the review application is rejected in circulation.


(S. P. Singh)
Member (A)

Vidya