

**CENTRAL ADMINISTRATIVE TRIBUNAL LUCKNOW BENCH
LUCKNOW**

**Review Application No. 332/00024/2014
In**

Original Application No. 494/2012

This, the 13th day of August, 2014.

**HON'BLE MR. NAVNEET KUMAR MEMBER (J)
HON'BLE MS. JAYATI CHANDRA, MEMBER (A)**

Jagannath Tripathi aged about 45 years S/o Late Raja Tiwari, R/o House No. 197/8/19, Baba Laxman Prasad Building Babuganj, Lucknow.

Applicant

**By Advocate Sri Deepak Shukla
Versus**

1. Council for Scientific and Industrial Research through Director General, Anusandhan Bhavan, 2 Rafi Marg, New Delhi.
2. The Director General, National Botanical Research Institute, Rana Pratap Marg, Lucknow
3. The Administrative Officer, National Botanical Research Institute, Rana Pratap Marg, Lucknow.

ORDER (Under Circulation)

By Hon'ble Mr. Navneet Kumar, Member (J)

The present review application is preferred by the applicant for reviewing the order dated 29th May, 2014 passed in O.A. No. 494 of 2012. The review applicant filed the present review application on the ground that the similarly situated persons were granted temporary status for sufficient length of time in pursuance of the CSIR decision dated 12.01.1994, but the name of the applicant could not find place in the list. Subsequently, another list of candidates were issued in 2001 wherein, the name of the applicant in the list of non absorbed worker under scheme 1995. Subsequently, the applicant applied for

- 2 -

various posts in pursuance of the notification issued by the respondents and also appeared in 1997, 2002 and 2004. Not only this, it is also pointed by the applicant that he had spent 24 years of service in the department hence, he is entitled for the similar treatment as granted to the similar situated persons. By means of an interim relief, the applicant was allowed to appear in the interview scheduled to be held on 17.12.12. The applicant appeared provisionally in the interview. The Tribunal dismissed the O.A. on 29.5.2014 on the ground that the applicant was identified for the post of Group I and the vacancies were for Group D post. It is also submitted by the learned counsel for the applicant that there was no restriction for considering the applicant against the Group D as well.

2. On behalf of the applicant, it is also submitted that though the applicant had applied for Group D post which is lower than the Group I post and pay scale of Group I and Group D is the same, therefore, the applicant cannot be considered for this post.

3. While deciding the O.A., the Tribunal has categorically observed about the conditions mentioned in the appointment order of the applicant as well as the notification dated 8.8.2012 was issued to the post of Group D i.e. Peon and Farash and not for Group I in response to which 16 applications including the applicant were received and the same were examined and after due process of selection, the

-3-

applications were scrutinized, but the name of the applicant could not find place in the list of eligible candidates. As such, the name of the applicant could not be recommended by the selection committee for appointment as Farash and Peon.

4. The grounds and the facts mentioned in the review application were already on record in the O.A. and by means of the present review application, the applicant's wants to re-open the issue a fresh.

5. Now the question of review which is before this Tribunal at present and it is clear that the scope of review is very limited. As observed by the Hon'ble Apex Court in the case of **Meera Bhanja vs. Nirmala Kumari Choudhury reported in (1995) 1 SCC 170**, that review proceedings cannot be considered by way of an appeal and have to be strictly continued to the scope and ambit of Order 47 Rule 1 of CPC and review petition is required to be entertained only on the ground of error apparent on the face of record. The Hon'ble Apex Court has also been pleased to observe that while deciding the review, the matter cannot be re-apprised and only typographical error apparent on record can be reviewed.

6. In another case of **Parsion Devi and Others Vs. Sumitri Devi and Others reported in (1997) 8 SCC -715**, the Hon'ble Apex Court has been pleased to observe as under:-

“9. Under Order 47 Rule 1 CPC a judgment may be open to review inter alia if there is a mistake or an

error apparent on the face of the record. An error which is not self evident and has to be detected by a process of reasoning, can hardly be said to be an error apparent on the face of the record justifying the court to exercise its power review under Order 47 Rule 1 CPC. In exercise of the jurisdiction under Order 47 Rule 1 CPC it is not permissible for an erroneous decision to be "reheard and corrected". A review petition, it must be remembered has limited purpose and cannot be allowed to be "an appeal in disguise."

10. Considered in the light of this settled position we find that Sharma, J. clearly over-stepped the jurisdiction vested in the court under Order 47 Rule 1 CPC. The observation of Sharma, J. that "accordingly", the order in question is reviewed and it is held that the decree in question is reviewed and it is held that the decree in question was of composite nature wherein both mandatory and prohibitory injunction were provided" and as such the case was covered by Article the scope of Order 47 Rule 1 CPC. There is a clear distinction between an erroneous decision and an error apparent on the face of the record. While the first can be corrected by the higher forum, the later only can be corrected by exercise of the review jurisdiction. While passing the impugned order, Sharma, J. found the order in Civil Revision dated 25.4.1989 as an erroneous decision, though without saying so in so many words. Indeed, while passing the impugned order Sharma, J. did record that there was a mistake or an error apparent on the face of the record which not of such a nature, "Which had to be detected by a long drawn process of reasons" and proceeded to set at naught the order of Gupta, J. However, mechanical use of statutorily sanctified phrases cannot detract from the real import of the order passed in exercise of the review jurisdiction. Recourse to review petition in the facts and circumstances of the case was not permissible. The aggrieved judgment debtors could have approached the higher forum through appropriate proceedings, to assail the order of Gupta, J. and get it set aside but it was not open to them to seek a "review of the order of petition. In this view of the matter, we are of the opinion that the impugned order of Sharma, J. cannot be sustained and accordingly accept this appeal and set aside the impugned order dated 6.3.1997."

5

7. **Inder Chand Jain(Dead) Through Lrs, Vs. Motilal (Dead) Through Lrs.** Reported in (2009) 14 SCC 663, the Hon'ble Apex Court has been pleased to observe as under:-

"10. It is beyond any doubt or dispute that the review court does not sit in appeal over its own order. A rehearing of the matter is impermissible in law or pronounced, it should not be altered. It is also trite that exercise of inherent jurisdiction is not invoked for reviewing any order."

8. Considering the observations of the Hon'ble Apex Court and the pleadings available on record, we do not find any reasons to interfere in the present review application. Accordingly the review application is dismissed. No order as to costs.

J. Chandra
(Jayati Chandra)
Member (A)

VR. Agarwal
(Navneet Kumar)
Member (J)

Vidya

Chandra
Cafey & Founder
Deceased 13-8-14
Frap record
29-8-14