

By Circulation

**CENTRAL ADMINISTRATIVE TRIBUNAL,
LUCKNOW BENCH,
LUCKNOW.**

Review Application No. 16 of 2015

In re.

Original Application No. 193 of 2010

This the 27th day of May, 2015

Hon'ble Mr. Navneet Kumar, Member-J
Hon'ble Ms. Jayati Chandra, Member -A

Principal General Manager, Bharat Sanchar Nigam Limited,
Telecom District Lucknow, Gandhi Bhawan, M.G. Road, Lucknow
and others.

..... Review Applicants

By Advocate: Sri A.K. Chaturvedi.

Versus.

Raja Ram

..... Respondent

By Advocate:

ORDER

By Ms. Jayati Chandra, Member-A

This Review Application has been filed by the Review applicants (respondents in the O.A.) under Rule 17 of Central Administrative Tribunals (Procedure) Rules, 1987 praying for review of the judgment and order dated 13th October, 2014 passed in O.A. no. 193 of 2010.

2. The present Review Application has been filed on 01.4.2015 whereas the copy of the judgment was received by the applicant's counsel on 21.10.2014 and as such the same has been filed beyond 30 days from the date of receipt of certified copy of the order sought to be reviewed as prescribed under Rule 17(1) of CAT (Procedure) Rules, 1987 which reads as under:

"Rule 17(1):- No application for review shall be entertained unless it is filed within 30 days from the date of receipt of copy of the order sought to be reviewed."

3. The review applicants have filed Review Application under Section 22 (3)(f) of A.T. Act with a prayer for condonation of delay

J. Chandra

of about four months, which is stated to be on account of various formalities to be completed within the office of the respondents in the O.A. and the decision was taken to file the Review Application. In view of the explanation submitted in the delay condonation application, the delay in filing the Review Application is condoned.

4. By means of order dated 13.10.2014, the O.A. was disposed of with following directions:-

"In view of the above, the O.A. succeeds. The order dated 31.8.2007 and 9.10.2009 are quashed. The applicant is to be treated as Regular Mazdoor as per order dated 1.6.2007 from the date of his joining as Regular Mazdoor. The applicant is also entitled all consequential benefits including back wages. The above exercise shall be completed within a period of four months from the date of receipt of a copy of this order. No costs".

5. The Review applicants have stated that subsequent to the judgment passed by Hon'ble Supreme Court in the case of Secretary, State of Karnataka Vs. Uma Devi reported in 2006 (4) SCC 1 the departmental scheme for grant of temporary status and for regularization after 1989 was not legally tenable. However, in the above said order, the Hon'ble Supreme Court has directed that fresh scheme of regularization for such casual labourers who are duly qualified person holding duly sanctioned posts as on 10.4.2006 has to be framed. However, till date no such scheme has been framed. Hence the order passed in O.A. no. 193/2010 requires to be reviewed.

6. We have gone through the judgment and order under review and have also looked into the grounds taken for review. The grounds so raised by the applicant in his Review Application have already been raised in the O.A. and the same has also been considered and dealt with in detail while passing the order under review. It is noteworthy that the order of the Tribunal was passed after hearing the both sides.

7. The scope of review is very limited. As observed by Hon'ble Supreme Court in the case of **Meera Bhanja (Smt) Vs. Nirmala Kumar Choudhary (Smt.) reported in (1995) 1 SCC 170** it has been held by the Hon'ble Supreme Court that "the Review petition can be entertained only on the ground of error apparent on the face of record and not on any other ground. Any error apparent on the

J. Chandra

face of record must be such an error which must strike one on mere looking at the record and would not require any long drawn process of reasoning on points where there may conceivably be two opinions. Re-appraisal of the entire evidence or error would amount to exercise of appellate jurisdiction which is not permissible" by way of review application. This is the spirit of order XLVII, Rule 1 of CPC as has been held in this judgment of Hon'ble Supreme Court.

8. In another case of **Parsion Devi and Others Vs. Sumitri Devi and Others reported in (1997) 8 SCC -715**, the Hon'ble Supreme Court has held 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

T. Chander

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."

9. The Hon'ble Supreme Court in the case of **Inder Chand Jain (dead) through LRs Vs. Motilal (dead) through LRs reported in (2009) 14 SCC 663** has been pleased to observe as under:-

"It is beyond any doubt or dispute that the review court does not sit in appeal over its own order. A re-hearing of the matter is impermissible in law. It constitutes an exception to the general rule that once a judgment is signed or pronounced, it should not be altered. It is also trite that exercise of inherent jurisdiction is not invoked for reviewing any order."

10. In view of the above, Review Application is dismissed on the ground of delay and also on merits. No costs.

J. Chandra

(Ms. Jayati Chandra)
Member -A

Girish/-

Navneet Kumar

(Navneet Kumar)
Member-J

*OK
Copy of order
Dated 27-5-15
for perusal
28.5.15*