

Central Administrative Tribunal, Lucknow Bench, Lucknow

Review Application No. 332/00002/2015 in

Original Application No. 2/2008

This the 19th day of January, 2015

Hon'ble Sri Navneet Kumar, Member (J)
Hon'ble Ms. Jayati Chandra, Member (A)

Abul Muzaffar Khan aged about 60 years son of late Sri A.H. Khan, resident of Railwayganj, District Hardoi.

By Advocate: Sri Praveen Kumar Applicant

Versus

1. Union of India, through the General Manager, Northern Railway, Baroda House, new Delhi.
2. The Senior Divisional Commercial Manager, Northern Railway, Moradabad.
3. The Divisional Commercial Manager, Northern Railway, Moradabad.
4. Divisional Railway Manager, Northern Railway, Moradabad.

Respondents

By Advocate: None

ORDER (Under Circulation)

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

The present Review Application is preferred by the applicant u/s 22(3)(f) of AT Act, 1985 read with Rule 17 of CAT (Procedure) Rules 1987 for reviewing the order dated 15.4.2014 passed in O.A. No. 2 of 2008, passed by the Tribunal through which the Tribunal quashed the punishment orders, appellate order and show cause notice and granted the liberty to the respondents to proceed from the stage of charge sheet after appointing another enquiry officer and conduct the enquiry.

2. The applicant has preferred the review application on the ground that in terms of Section 19(4) of the AT Act, 1985, no orders could have been passed by the revising authority by issuing a show cause notice. Apart from this another ground is taken that once the order passed by the disciplinary authority, appellate authority and revisioning authority are quashed, liberty should not be granted to proceed from the stage of charge sheet. It is also submitted by the

applicant that the case is based on a defective trap , therefore, liberty to proceed with the enquiry should not have been granted.

3. In the O.A., the applicant has taken one of the ground that after trap conducted by the Vigilance Department, a charge sheet was served upon the applicant and inquiry officer was appointed and the applicant requested for change of the enquiry officer but the disciplinary authority without considering the request of the applicant directed the enquiry officer to proceed with the enquiry and the enquiry officer submitted the report and there was no justification given for not changing the enquiry officer when there is a specific request of the applicant for change of the enquiry officer.

4. Considering all these facts, the O.A. was allowed with liberty to respondents to proceed from the stage of charge sheet after appointing another enquiry officer and conduct the enquiry. Since the O.A. was allowed by the Tribunal but it was allowed to the respondents to proceed with the enquiry afresh as request of the applicant for change of enquiry officer was not considered by the authorities, as such there appears to be no error apparent on the face of record. Accordingly, the same is not covered within the ambit of review.

5. By means of the present review application, the applicant wants to re-open the entire issue afresh, which is not permissible as per law.

6. The Hon'ble Apex 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:-

“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.”



7. In another case of **Parson 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."

8. In the case of **M/s. Thungabhadra Industries Ltd. Vs. Government of Andhra Pradesh** AIR 1964 SC 1372, the Apex Court observed as under:-

"A review is by no means an appeal in disguise whereby an erroneous decision is reheard and corrected. but lies only for patent error. We do not consider that this furnishes a suitable occasion for dealing with this difference exhaustively or in any great detail, but it would suffice for us to say that 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."

9. In the case of **K.Ajit Babu Vs. Union of India 1997 (6) SCC 473 (para 4)**, while examining the provisions of Section 22(3)(f) of the AT Act and Rule 17(1) of CAT (Procedure) Rules and also order 47 Rule 1 of CPC, the Hon'ble Apex Court laid down that right of review is available to the aggrieved person on restricted ground mentioned in Order 47 of the Code of Civil Procedure if filed within the period of limitation.

10. As the Tribunal only set aside the impugned orders granting liberty to the respondents to proceed from the stage of charge sheet after appointing the enquiry officer and conduct the enquiry since the request of the applicant for change of enquiry officer was not acceded

to by the authorities, as such there is no error apparent on the face of record is shown in the order passed by the Tribunal .

11. Accordingly, we do not find it proper to review/modify the order of the Tribunal by deleting the liberty granted to the respondents to proceed afresh from the stage of charge sheet after appointing another enquiry officer and conduct the enquiry.

12. Considering the observations of the Hon'ble Apex Court and facts of the case, we do not find any ground to interfere in the present review application. Accordingly, review application is dismissed.

J Chandra

(Jayati Chandra)
Member (A)

Navneet Kumar

(Navneet Kumar)
Member (J)

HLS/-

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Copy to Order
Date 9.1.15
Pradeep
21-1-15~~