

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PATNA BENCH.

Date of Order 24.1.1997

RA 47 of 1996 in
OA No. 310/96.

Michael Lomga s/o late Lepa Lomga,
at present resident of village Sitagarh,
Police Station Sadar,
P.O. and Distt. Hazaribagh.

...Applicant.

Vs.

1. Union of India through
Ministry of Finance, GOI, New Delhi.
2. Comptroller & Auditor General of India,
10 Bahadur Shah Zafar Marg,
New Delhi.
3. Principal Accountant General (A&E),
Bihar, Ranchi.
4. Sr. Deputy Accountant General (W&F),
Bihar, Ranchi.
5. Dy. Accountant General (Works),
Bihar, Ranchi,
6. Engineer-in-Chief-cum-Addl. Commissioner,
cum-Spl. Secy, RDD, Bihar, Patna.
7. Chief Engineer, REO Chotanagpur Wing,
Ashok Nagar, Ranchi, Bihar.
8. Superintending Engineer, REO, Hazaribagh Circle,
Bihar.
9. Executive Engineer, REO, Hazaribagh Divn.
Hazaribagh.
10. Executive Engineer,
National Highway No.II, Dhanbad.
11. Sr. Account Officer,
Bihar WMI Section, Ranchi.

...Respondents.

O R D E R
(Hon'ble Mr. N.K. Verma, Member (A))

...
This is a Review Petition by a State Govt.
employee who ceased to be a Central Govt. employee after
his reversion from deputation to the Central Govt. The

applicant was reverted from the post of Emergency Divisional Accountant vide memo. dated 8.3.1991 followed by memo. dated 17.11.93 of the Dy. Accountant General (Works) Bihar, Ranchi and thereafter the applicant reported for duty on 11.9.94 to his parent office in the State Govt. of Bihar. The OA was directed towards quashing of the reversion orders passed in March, 91 and November, 93 by which the applicant was reverted to his parent department. The applicant has no nexus on the post of the Emergency Divisional Accountant which is a Govt. of India post and therefore, it was held at the admission stage that the OA is not maintainable and was, therefore, dismissed at the admission stage itself. The Application is patently not maintainable before the Tribunal in view of Section 14 of the Administrative Tribunals Act, 1985 which clearly states that the Central Administrative Tribunal shall exercise all the jurisdiction, powers and authority exercisable in relation to:-

- (a) recruitment, and matters concerning recruitment, to any All India Service or to any civil service of the Union or a civil post under the Union or to a post connected with defence or in the defence services, being, in either case, a post filled by a civilian;
- (b) all service matters concerning-
 - (i) a member of any All India Service; or
 - (ii) a person (not being a member of an All India Service or a person referred to in clause
- (c) appointed to any civil service of the Union or any civil post under the Union; or
- (iii) a civilian (not being a member of an All India Service or a person referred to in clause
- (c) appointed to any defence services or a post connected with defence,

and pertaining to the service of such member,

person or civilian, in connection with the affairs of the Union or of any State or of any local or other authority within the territory of India or under the control of the Govt. of India or of any corporation (or society) owned or controlled by the Govt.;

(c) all service matters pertaining to service in connection with the affairs of the Union concerning a person appointed to any service or post referred to in sub-clause (ii) or sub-clause (iii) of clause (b), being a person whose services have been placed by a State Govt. or any local or other authority or any corporation (or society) or other body, at the disposal of the Central Govt. for such appointment"

The applicant was covered by Section 14(1)(c) so long as he was with the Central Govt. Once his services had been dispensed with he lost his locus standi of approaching this Tribunal for further retention on the post under deputation. The applicant was, therefore, directed to approach the State Administrative Tribunal for seeking relief in the matter.

2. He has, however, filed a Review Petition under Section 22(3)(f) of the Administrative Tribunals Act, 1985 which action does not cover his agitation at all. Under Section 22(3)(f), a Tribunal shall have, for the purposes of discharging its functions under this Act, the same powers as are vested in a civil court under the Code of Civil Procedure, 1908, while trying a suit, in respect of the following matters, namely-

x x x x

(f) reviewing its decisions.

3. As per Order XLVII Rule 1, a Review Application can be filed if a person is aggrieved-

(a) by a decree or order from which an appeal is allowed, but from which, no appeal has been preferred,

(b) by a decree or order from which no appeal is allowed, or

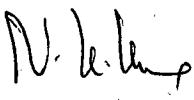
(c) by a decision on a reference from a Court of Small Causes and who, from the discovery of new and important matter or evidence which, after the exercise of due diligence, was not within his knowledge or could not be produced by him at the time when the decree was passed or order made, or on account of some mistake or error apparent on the face of the record, or for any other sufficient reason, desires to obtain a review of the decree passed or order made against him may apply for a review of judgment to the court which passed the decree or made the order.

It emerges from the above that a Review Petition can only be filed when a suit has been tried by the Tribunal or if the adjudication has been done in the matter. As would be evident from the foregoing that the Application was found non maintainable and was accordingly rejected under the powers vested under Section 19(3) which states, ".....but where the Tribunal is not so satisfied it may summarily reject the application after recording its reasons." The summary rejection of the application cannot be considered to be an order or a decree against which a Review Petition would lie as per Section 22(3)(f). A 'Decree' as defined in the CPC means, "the formal expression of an adjudication which, so far as regards the Court expressing it, conclusively determines the rights of the parties with regard to all or any of the matters in controversy in the suit and may be either preliminary or final...." An 'Order' means the formal expression of any decision of a Civil Court which is not a decree. The summary rejection of an Application under Section 19,

therefore, cannot be termed to be an order or a decree against which a review would lie as no trial or adjudication done in the matter. Maintainability of an Application is entirely to establish that it is a fit case for adjudication or trial by the Tribunal. Since it was held by me during the hearing on admission that the matter was not fit for adjudication as it was non maintainable and had been filed by a person who was not amenable to the jurisdiction of the Tribunal under the Administrative Tribunals Act, the applicant cannot prefer a review of that summary rejection.

4. In view of the above, the Review Application merits rejection. The Registry of Patna Bench shall also ensure that such vexatious and repetitive applications from persons not entitled to any adjudication by this Tribunal are hereafter ^{not} entertained and put up for review thereby wasting Govt. money and time.

Ordinarily I would like to have imposed cost on the applicant, but in view of the fact that this Review Petition has not been made through a legal Practitioner, I take a lenient view. Review Application is accordingly dismissed.


(N.K. VERMA)
MEMBER (A)

"MS"