

CENTRAL ADMINISTRATIVE TRIBUNAL

PATNA BENCHR.A.NO.: 20 OF 2009

[Arising out of OA 445 of 2006]

[Patna, this Tues day, the 11 Day of September, 2012]C O R A M

HON'BLE MR. A.K.JAIN, MEMBER [ADMN.]

HON'BLE MRS. URMITA DATTA (SEN), MEMBER [JUDL.]

Nagen Chandra Mandal, S/o Late Bhola Nath Mandal, resident of village –
Saguna, P.S.: Danapur, District – Patna.APPLICANT.

By Advocate :- Shri J.K.Karn.

Shri H.K.Karn.

Vs.

1. The Union of India through the General Manager [P], East Central Railway, Hajipur.
2. The General Manager [P], Eastern Railway, 17 N.S.Raoad, Fairlie Palace, Kolkata-700 001.
3. The Divisional Railway Manager, E.C.Railway, Danapur.
4. The Sr. Divisional Personnel Officer, E.C.Railway, Danapur.

.....RESPONDENTS.By Advocate :- Shri S.K.Griyaghey, ASC.O R D E R

Urmita Datta (Sen), Member [Judl.] :- The instant Review Application has been filed for review of order dated 07.01.2009 which was dismissed on the ground of limitation. The applicant has submitted in the application that at the time of final argument the question of limitation was not at all raised by the learned counsel for the respondents and as such, there was no argument on the said issue and also the observation made by the Tribunal on merit, the applicant had not brought on record the rules governing restructuring 1984 and Railway Board's circular and also the departmental proceeding.

2. We have gone through the Review Application. The scope of Review Application has been dealt with by the Hon'ble Apex Court in the case of State of West Bengal Vs. Kamal Kumar Sen Gupta [(2008) 8 SCC 612 as follows :-

"35. The principles which can be culled out from the above mentioned judgments are :

[i] The power of the Tribunal to review its order/decision



under Section 22[3][f] of the Act is akin/analogous to the power of a civil court under Section 114 read with Order 47 Rule 1 CPC.

[ii] The Tribunal can review its decision on either of the grounds enumerated in Order 47 Rule 1 and not otherwise.

[iii] The expression "any other sufficient reasons" appearing in Order 47 Rule 1 has to be interpreted in the light of other specified grounds.

[iv] An error which is not self-evident and which can be discovered by a long process of reasoning, cannot be treated as an error apparent on the face of record justifying exercise of power under Section 22[3][f].

[v] An erroneous order/decision cannot be corrected in the guise of exercise of power of review.

[vi] A decision/order cannot be reviewed under Section 22 [3][f] on the basis of subsequent decision/judgment of a coordinate or large Bench of the Tribunal or of a superior court.

[vii] While considering an application for review, the Tribunal must confine its adjudication with reference to material which was available at the time of initial decision. The happening of some subsequent event or development cannot be taken note of for declaring the initial order/decision as vitiated by an error apparent.

[viii] Mere discovery of new or important matter or evidence is not sufficient ground for review. The party seeking review has also to show that such matter or evidence was not within its knowledge and even after the exercise of due diligence, the same could not be produced before the court/tribunal earlier."

3. We observe that since the main ground of review is that the question of limitation was not raised at the time of final argument, the OA should not be dismissed on that ground. Since the scope of review is very limited and the Tribunal while deciding the OA has dealt with the question of limitation in details, which is both question of law and facts, we do not find any error apparent on the face of the record for which a review can be allowed. Even if in the view of the applicant the decision is erroneous, that cannot be corrected in exercise of power of review but by filing appeal.

4. In view of above, the Review Application is dismissed.

[Urmita Datta (Sen)]/M[J]

[A.K.Jain]/M[A]