

CENTRAL ADMINISTRATIVE TRIBUNAL

PATNA BENCH, PATNA

R.A. No. 02 of 2006 [In OA No. 512 of 2005]

Patna, dated the 13<sup>th</sup> January, 2006

CORAM: The Hon'ble Justice P.K. Sinha, V.C.

Ishwar Sharan Prabhakar, son of Late Sadhu sharan Singh, Sub-Postmaster, Belauri SO, P.S. Dulhin Bazar, PO Masauri, Distircet Patna.

.. Applicant

versus

1. The Union of India, through Postmaster General, Bihar Circle, Patna.
2. Director, Postal Services, HQ, O/o Chief Postmaster General, Bihar Circle, Patna.
3. Sr. Supdt. Of Post Offices, Patna Division, Patna.
4. Supdt. Of Post Offices, Purnea Division, Purnea.

.. Respondents

ORDER

[By Circulation]

Justice P.K.Sinha, Vicie-Chairman:-

This is an application for review of the order recorded by this Tribunal dated 29.9.2005 in OA 512 of 2005 in the matter that related to the transfer of the applicant, Ishwar Sharan Prabhakar.

2. In this application, stress has been laid on withdrawal of Rule 37 of P&T Manual by the Director-General of Posts vide letter

dated 23.8.1990. Reference has been made to some other orders recorded by the Central Administrative Tribunal, Ahmedabad Bench and Allahabad Bench at Annexures-P/2 and P/3, in that regard.

3. The order referred to by the learned counsel for the applicant dated 23.8.1990 appears to be an administrative order, whereas Rule 37 constitutes part of P&T Manual having the force of law. Rule 37 aforesaid does not appear to have been deleted from the P&T Manual.

4. Be that as it may, the cases of transfers stand on their own footing and the applicant in this review application seeks to review an order on the basis of certain points which were available even at the time of argument that was made. The learned counsel also has relied upon a decision of the Apex Court in the case of Rajender Singh vs. Lt. Governor, Andaman & Nicobar Islands, 2005 [2] S.C. Services Law Judgments 505, on the scope of review. That decision relates to power of review of the High Court. The power of review of the Tribunal, under provisions of Section 22 of the A.T. Act is limited to the power of review as provided under Section 114 read with Order 47 of the Civil Procedure Code. What is the power of the Tribunal, of review, had been discussed by the Apex Court in the case of Ajit Kumar Rath vs. State of Orissa and others, reported in Supreme Court Service Rulings [Vol.25] page 751. Paragraphs 28 and 29 of the order runs as follows:-

“28. In Review proceedings, the Tribunal deviated from the principles laid down above which, we must say, is wholly unjustified and exhibits a tendency to re-write a judgment by which the controversy had been finally



decided. This, we are constrained to say, is not the scope of Review under Section 22[3] [f] of the Act which provides as under:

“Section 22.

[1].....

[2].....

[3] 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 [5 of 1908], while trying a suit in respect of the following matters, namely-

[a].....

[b].....

[c].....

[d].....

[e].....

[f]reviewing its decisions;

[g].....

[h].....

[i].....

“29. The provisions extracted above indicate that the power of review available to the Tribunal is the same as has been given to a Court under Section 114 read with Order 47 CPC. The power is not absolute and is hedged in by the restrictions indicated in Order 47. The power can be exercised on the application of a person on 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 order was made. The power can also be exercised on account of some mistake or error apparent on the face of the record or for any other sufficient reason. A review cannot be claimed or asked for merely for a fresh hearing or arguments or correction of an erroneous view taken earlier, that is to say, the power of review can be exercised only for correction of a patent error of law or fact which stares in the face without any elaborate argument being needed for establishing it. It may be pointed out that the expression "any other sufficient reason" used in order 47 Rule 1 means a reason sufficiently analogous to those specified in the rule."

5. In that view of the matter, it only appears that the applicant wants to re-argue the case on the basis of certain decisions,etc. which must have been available at the time the arguments were made before the order was recorded.

6. In such circumstance, I am not inclined to review the order, as aforesaid. This Review Application is dismissed.



[P.K.Sinha]  
Vice-Chairman

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