

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH, MUMBAI

R.P.NO.23/98 in OA.NO.986/96

Pronounced this the 24 day of April 1998

CORAM: Hon'ble Shri Justice R.G.Vaidyanatha, Vice Chairman
Hon'ble Shri P.P.Srivastava, Member (A)

B.M.Chaturvedi

By Advocate Shri M.S.Ramamurthy ... Applicant
V/S.

Union of India & Ors.

By Advocate Shri R.K.Shetty ... Respondents

Tribunal's Order

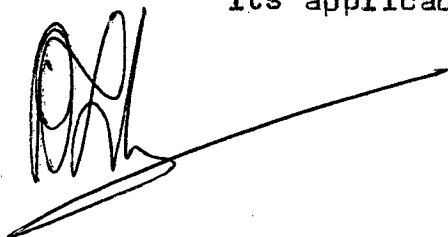
The OA.NO. 986/96 was decided by the Tribunal by Division Bench of the Tribunal on 4.3.1997. The applicant has filed the Review Petition on 10.2.1998. In terms of the rule, review petition should have been filed within a period of one month from the date of decision. Taking into account that the applicant has collected the copy of the order on 14.3.1997, the review petition should have been filed on or before 14.4.1997. The applicant has filed along with the review petition an M.P. for condonation of delay. The review petitioner has prayed for review and recall of the order and judgement dated 4.3.1997 mainly on the ground that certain vital material and important facts could not be brought in the proceedings when OA.NO.986/96 was decided. The review petitioner has brought out that many employees in the P.K.M. seniority list of Chargeman II prepared as a consequence of the judgement of Full Bench of this Tribunal are not

reverted and are still working in the higher grade, could not be brought out in the pleadings when OA.NO. 986/96 was decided.

2. The review petitioner has further brought out that the review petitioner had filed OA.NO.724/97 challenging the order of reversion dated 9.9.1996. In this OA. the review petitioner has annexed a list of persons who were junior to him which came to be published subsequent to the judgement in the OA. The review petitioner has brought out that this OA. 724/97 came to be rejected by the Tribunal vide its judgement and order dated 8.12.1997 on the ground of res-judicata as the petitioner had challenged the same reversion order in OA.NO.986/96. The learned counsel for the review petitioner has argued that the vital and important information that large number of persons junior to the applicant are still working could not be brought to the notice of the Tribunal in the original OA. and therefore the order of the Tribunal is required to be recalled.

3. We have heard the learned counsel for the review petitioner as well as perused the record. It is seen that firstly the OA. was rejected on the ground that the decision of Full Bench cannot be challenged before the Division Bench. It is observed in Para 6 as under :-

"6. We are in agreement with the learned counsel for the respondents on the aspect of the case that the decision of the Full Bench cannot be challenged before the Divisional Bench in the same case. It is not a case where the applicant is challenging the ratio laid down in the Full Bench and its applicability in the present OA.



The OA.NO.1237/93 of the applicant on similar relief has been considered by the Full Bench and decision of the Full Bench, therefore, is final and we, therefore, do not find any justification to consider the same controversy in the present OA."

It was also observed by the Tribunal in Para 9 that :-

"9. The applicant has not brought out any material on record in OA. to show that the respondents have not followed the principles laid down in Para 79 of the Full Bench judgement for the purpose of reversion which may have to be ordered as a result of the Full Bench judgement."

Since the learned counsel for the respondents has argued that the reversion of the applicant has been made after considering and examining the decision of Full Bench, the Tribunal had declined to interfere with the order of reversion. Even in the present review petition it is not brought out as to how the fact of large number of junior employees working is relevant for the application of the principles laid down in Para 79 of the Full Bench judgement.

4. The review petitioner has not brought out any error apparent on the face of record in the judgement. It is now well established that the power of review may be exercised on the discovery of new and important matter or evidence which, after the exercise of due diligence was not within the knowledge of the person seeking the review or could not be produced by him at the time when the order was made. It is also now well established that it may be exercised where some mistake or error apparent on the face of the record is found. It may also be



exercised on any analogous ground but it may not be exercised on the ground that the decision was erroneous on merits. That would be the province of a court of appeal.

5. From the above discussion, it is evident that the applicant has not been able to show any error apparent on the face of record nor the pleading of the applicant can be accepted that with due diligence he was not in a position to show that some junior persons were not reverted. We are, therefore, of the view that the applicant has not been able to make out a case for review of the order and judgement of the Tribunal.

6. Since we are rejecting the review petition on merit, we are not expressing any opinion on the question of delay in filing application for review.



(P.P. SRIVASTAVA)
MEMBER (A)


(R.G. VAIDYANATHA)
VICE CHAIRMAN

mrj.

dd. 21/4/98
Order/Judgement despatched
to Applicant/Respondent (s)
on 24/4/98.

28/4/98