

CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH

Review Petition No.59/2003
in OA No.990/1999

8th August, 2003

Shri Bachan Chand Malchand Ramula

... Applicant
(Review Petitioner)

V/s.

Union of India & Anr.

... Respondents

TRIBUNAL'S ORDER BY CIRCULATION

Per Shri Shankar Prasad, Member(J)

The instant review petition in OA 990/99 has been preferred on the ground that there are errors, apparent infirmities as stated in para 2 of the review application. 18 grounds have been mentioned. They include leave should have been granted for this long absence of 14 years, private medical certificate should have been considered, enquiry was not conducted in accordance with principles of natural justice and that all judgements cited by him were not considered and since he had resumed duties he could not have been proceeded against.

2. The scope of review under the Administrative Tribunal Act has been explained by the Apex Court in Ajit Kumar Rath Vs. State of Orissa & Others 2000(1)SC 811.

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 person on the discovery of new and important matter or evidence which, after the exercise of due diligence, was not within the 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 fact of the record or for any other sufficient reason. A review cannot be claimed or asked for merely for 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 correcting of patent error of law or

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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.

30. Any other attempt, except an attempt to correct an apparent error or an attempt not based on any ground set out in Order 47 would amount to an abuse of the liberty given to the Tribunal under the Act to review its judgement.

3. It is clear from the above judgement that error apparent on fact of record or new materials which could not be found earlier even after due diligence can result in review of the application.

4. It is a case of absence from 1984 to 1998. During the departmental enquiry the applicant had admitted his absence mentioning health grounds. The issue regarding medical certificate of private doctor have been dealt in para 10 of judgement pointing out that cross checking is not possible after such a long lapse of time. } If the charges are admitted then as per Rule 14(10) the Enquiry Officer has to record a finding of guilt and send the report to disciplinary authority for further action. The report was made available and then the orders passed. As regards the plea that after the letter asking him to rejoin and he having joined action for absence cannot be taken the Apex Court decision in Maan Singh Vs. Union of India 2003 SCC (L&S) 314 refers. This aspect has been considered in para 9 of the judgement. All the relevant decisions cited by the applicant's lawyer have been considered and it is not necessary to consider each and every cited judgement.

5. There is no merit in this review application and the same is dismissed at the circulation stage.

Shankar Prasad
(SHANKAR PRASAD)
MEMBER(A)
app

Kuldeep
(KULDIP SINGH)
MEMBER(J)