

**R.P. NO.:** 22/2005      **IN M.Ps.**      177, 384, 385 & 524 of 2004

Dated this Wednesday, the 17th day of August, 2005.

Mrs. Vijaya Anil Deshpande ... Petitioner.

Union of India & Others ... Respondents.

Shri Anand Kumar Bhatt, Member (A).

The applicant had initially come to the Tribunal in O.A. 233/2000. The grievance was against the applicant's transfer order dated 24.03.2000. This was heard by Mrs. Shanta Shastri, Member (A) and the O.A. was dismissed. The applicant, Mrs. Vijaya Anil Deshpande, had gone to the High Court in Writ Petition No. 2707/2001 in which order was passed on 04.06.2003 where the order of the Tribunal was upheld and writ petition dismissed. After that, the applicant <sup>came before the Tribunal</sup> in M.P. No. 177/2004 which was filed on 25.02.2004 stating that the averment made by Respondents No. 1 to 4 in the affidavit which was filed on 20.04.2000 that

Respondent No. 6, Mr. Shakya, was also transferred is incorrect and, therefore, it was prayed that the Registry be directed to file a criminal complaint against respondents for adducing false evidence before the Tribunal. Two separate M.Ps. 384/04 & 524/04 were also filed by the applicant for directing the respondents to produce indicated documents. Another M.P. 385/2004 was filed on behalf of Respondents 1 and 2 to delete their names as party respondents, as no relief was sought from them. After hearing both the parties, M.P. No. 177/2004 along with M.P. 384/2004 and 524/2004 filed by the applicant were rejected by me. M.P. 385/2004 filed by Respondent No. 1 and 2 to delete them from the list of private respondents was allowed.

2. Now the applicant, Mrs. V.A. Deshpande, has come in Review Petition 22/2005 against the order in the four M.Ps. The grounds taken by the applicant are that the opinion of the Tribunal that the applicant has to prove <sup>her</sup> case is not correct on the face of the record and it is a matter of investigation and without the documents produced before the authorities no Court shall proceed with the matter as per provisions of IPC, CRPC and Evidence Act and the Tribunal had to pass a detailed reasoned order as to why documents were not required to the Tribunal for justification of the claim of the applicant and it is a mistake on the face of the record. Another alleged mistake committed by the

Tribunal is the conclusion that the signature of N.G. Shakya as ACAO (TR) Pune Telecom is a typographical error. It has been detailed out <sup>why to</sup> ~~that~~ this cannot be termed as typographical error. It has also been contended by the applicant that deleting the names of Respondent No. 1 and 2 from the array of respondents is a apparent mistake as Respondent No. 1 and 2 have consented to the reply filed. For these reasons, the applicant wants a review of the order passed by the Tribunal on 16.03.2005 on the four M.Ps. In the oral submissions, Shri Vinod Joshi, Counsel for the applicant, reiterated the written pleadings. He contended that reply has not been filed by all the respondents which have been named in the M.Ps. filed by him. The original reply was issued on 17.04.2000 whereas the transfer of Shri N.J. Shakya was effected only <sup>eleven to</sup> ~~one~~ months thereafter.

3. In the reply filed by the respondents it has been stated that Shri N. J. Shakya, ACAO (TR), Input Cell was transferred as ACAO under G.M. (Finance) vide P.G.M.T. Pune order dated 24.03.2000. Shri N. J. Shakya was struck off from the strength CAO (TR) on 17.04.2004 with instructions to hand over charge to another officer and accordingly charge was handed over and the same afternoon Shri N.J. Shakya took over the charge of ACAO under General Manager (Finance) Pune. Later he was promoted as officiating CAO and posted as CAO (TR) West and Input Cell vide CGMT Mumbai order dated 16.03.2001 and PGMT Order dated 16.05.2001 and

took charge as CAO (TR) West on 02.04.2001. Thereafter, Shri N. J. Shakya, CAO (TR) West was posted as CAO (Cash) vide PGMT order dated 04.12.2001. Therefore, the allegation of the applicant that Shri N.J. Shakya, ACAO was never transferred from TRA Unit until 04.12.2001 and only after 12 months the transfer order was effected is not correct. A separate reply was also filed on behalf of Respondent No. 5.

4. In the oral arguments, Shri V.S. Masurkar, Counsel for the respondents, reiterated the written pleadings and contended that the situation which was prevailing as on 20.04.2004 has to be seen for deciding the question whether any perjury has been committed by the respondents. As regards N.J. Shakya, he retired on 30.09.2002. A separate reply has also been filed by Shri N.J. Shakya.

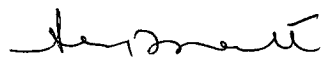
5. I considered the review petition. An application for review could be considered on discovery of new and important matter of evidence, or on account of some mistake or error apparent on the face of the record or for any other sufficient reason. The applicant has not claimed discovery of any new evidence. What the applicant has averred cannot be termed as error apparent on the face of record but he is challenging the conclusion drawn by the Tribunal and, therefore, he has come before us for correcting the allegedly erroneous judgement. A review is by no means an appeal in disguise whereby an erroneous decision is reheard

and corrected but lies only for patent error, as has been held by the Apex Court in AIR 1964 SC 1372 [Thungabhadra Industries Ltd. Vs. The Government of Andhra Pradesh]. Similarly, the Apex Court in AIR 1995 SC 455 [Meera Bhanja Vs. Nirmala Kumari Choudhury] has held that "error apparent on face of record" means an error which strikes one on mere looking at record and would not require any long drawn process of reasoning on points where there may conceivable be two opinions. The applicant has contended that for drawing the conclusion, as has been drawn in the M.P., it was necessary for the Tribunal to call for the records, as was requested by the applicant. However, the Tribunal in para 6 of the said order dated 16.03.2005 have discussed how on the basis of the documents which were filed by the respondents along with the reply the contention of the applicant does not hold water. Therefore, it cannot be said that the conclusion of the Tribunal is not based on any document. Right or wrong, a decision has been given by the Tribunal in the M.P. and if the applicant is not happy with the said order on the M.P., he cannot raise the grievance within the limited scope of a review petition.

6. The applicant had claimed that perjury was committed by the respondents in their reply dated 20.04.2000. However, in the order of the High Court dated 04.06.2003 in W.P. No. 2707/2001 there is not a whisper about the said contention of the applicant. In any case, whether a perjury

has been committed or not, is a matter between the Court and the person/s who have allegedly committed perjury and it is the discretion of the Tribunal/Court to decide how to arrive at this satisfaction.

7. To sum up, the R.P. is dismissed in circulation <sup>having no force to</sup> No costs.

  
(ANAND KUMAR BHATT)  
MEMBER (A)

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