

CENTRAL ADMINISTRATIVE TRIBUNAL

MUMBAI BENCH, MUMBAI

R.P.No.65/2001 in OA.No.22/2000

Dated this the 24th day of October 2002.

CORAM :- Hon'ble Shri S.L.Jain, Member (J)

Hon'ble Smt.Shanta Shastry, Member (A)

Union of India & Ors.

...Applicants

By Advocate Shri R.R.Shetty
for Shri R.K.Shetty

vs.

P.R.Kulkarni

...Respondents

By Advocate Shri K.K.Waghmare

O R D E R

{Per : Shri S.L.Jain, Member (J)}

The Respondents have filed this Review Application in respect of an order dated 1.8.2001 in OA.NO.22/2000.

2. The Respondents are claiming review of the aforesaid order on the ground of Apex Court judgement dated 24.10.1997, Principal Bench judgement dated 15.7.1998 and 10.7.1998.

3. 2000 (2) A.I.SLJ 108 - Ajit Kumar Rath vs. State of Orissa & Ors., the Apex Court has held that :-

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"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."

"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."

4. In A.I.R. 2000 S.C. 1650 - Lily Thomas vs. Union of India & Ors., the Apex Court has held that :-

"Error contemplated under the rule must be such which is apparent on the face of the record and not an error which is to be fished out and searched."

"Error apparent on the face of the proceedings is an error which is based on clear ignorance or disregard of the provisions of law."

5. In Batuk K. Vyas vs. Surat Borough Municipality - AIR 1953 Bom 133 (R), it is held that :-

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"No error could be said to be apparent on the face of the record if it was not self-evident and if it required an examination or argument to establish it. This test might afford a satisfactory basis for decision in the majority of cases. But there must be cases in which even this test might breakdown, because judicial opinion also differ, and an error that might be considered by one-judge as self evident might not be so considered by another. The fact is that what is an error apparent on the face of the record cannot be defined precisely or exhaustively, there being an element of indefiniteness inherent in its very nature, and it must be left to be determined judicially on the facts of each case."

6. It will not be unnecessary to state that the case of the applicant was decided on the basis of earlier judgement of the Apex Court and also the decision of this Bench in other OAs. The authorities now relied were not placed for consideration before the Tribunal, when the matter came for hearing. The respondents are seeking by this review a re-hearing of the matter.

7. In the result, we do not find any merit in reviewing the order passed by this Tribunal. As such, Review Application deserves to be dismissed and is dismissed accordingly. No order as to costs.

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(SMT.SHANTA SHAstry)

MEMBER (A)

S.L.Jain

(S.L.JAIN)

MEMBER (J)

mrj.