

CENTRAL ADMINISTRATIVE TRIBUNAL

MUMBAI BENCH, MUMBAI

R.P.No.10/01 in OA.NO.944/93

Dated this the 25th day of October 2001.

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

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

Yashwant Narayan Mhatre,
R/o Bori-Uran Road,
Near Sangam Theatre,
Tal & Post Uran,
Dist. Raigad,
Maharashtra.

...Petitioner

By Advocate Shri P.A.Prabhakaran

vs.

1. Union of India through
Vice Admiral, Flag Officer
Commanding-in-Chief,
Western Naval Command,
Shahid Bhagatsingh Road,
Mumbai.

2. Commodore Chief Staff Officer
(P&A), Western Naval Command,
Shahid Bhagatsingh Road,
Mumbai.

...Respondents

By Advocate Shri V.S.Masurkar

O R D E R

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

This is an application under Rule 17 of CAT (Procedure) Rules, 1987 for review of an order passed in OA.NO.944/93 dated 7.8.1998.

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2. The applicant filed Review Petition No.49/98 which was decided by the Bench by Circulation vide order dated 17.9.1998.

Thereafter, the applicant has preferred this Review Petition No.10/01 on 23.2.2001.

3. The learned counsel for the respondents opposed the application on the ground that there is no provision in the Administrative Tribunals Act, 1985 or the Rules made there under i.e. CAT (Procedure) Rules, 1987 to file a second review and a review application is to be filed within 30 days from the date of receipt of a copy of the order sought to be reviewed as such the review application is barred by time. He further submitted that it is an abuse of the process of the Tribunal and the application deserves to be dismissed with cost.

4. The cause for filing this review petition is that in Special Case No.18/89 decided on 25.4.2000, the accused Gopal Shridhar Sawant is acquitted of the charges punishable under Section 380/411 of the I.P.C. and Section 5 (1) read with Section of the P.C.Act 1947. The applicant claims that he has received the information about the said judgement only in December,2000. He claims that Shri G.S.Sawant received the certified copy on 12.10.2000 which was shown to him in December,2000. He further claims that as the copy was not legible, he obtained the copy in January,2000 and soon thereafter filed the Review Petition.

5. It is worth mentioning that in Special Case No.18/89 the applicant was not one of the accused persons. The learned counsel for the Review Petitioner relied on para 3 which is as under :-

" Originally, CBI had also nabbed Yeshwant Narayan Mhatre, an associate of the Accused Gopal Shridhar Sawant being involved in this shady deal of question papers in the Navy. Later for want of sufficient material, CBI recommended only departmental action against Yeshwant Narayan Mhatre to the Navy and dropped him as Accused from this action."

On the basis of said narration, the Review petitioner claims that the order passed in OA. dated 7.8.1993 be reviewed.

6. We agree with the submission of the learned counsel for the respondents that there is no provision either in Administrative Tribunals Act, 1985 or CAT (Procedure) Rules, 1987 to file a second Review petition and the Review petition filed by the applicant is beyond 30 days. As such, we are of the considered opinion that the Review Petition does not lie.

7. The learned counsel for the Review Petitioner relied on 1999 SCC (L&S) 810 - Capt.M.Paul Anthony vs. Bharat Gold Mines Ltd. & Anr., 1999 SCC (L&S) 153 - Chandraprakash Madhavrao Dadwala & Ors. vs. Union of India & Ors., 1998 SCC (L&S) 162 - Union of India vs. V.K.Bhaskar.

JPJ/-

..4/-

8. On perusal of Capt.M.Paul Anthony's case, we are of the considered opinion that in the said case the charged official was acquitted in the criminal case while in the present case, the Review Petitioner was not even prosecuted. As such, there is no finding of the Criminal Court. The narration of the facts which the prosecution stated before the Criminal Court cannot be a ground for review.

9. The case of V.K.Bhaskar deals with Central Civil Services (Classification, Control and Appeal) Rules, 1965, Rule 19(i) which has no relevance to the matter in question. The case of Chandraprakash Madhavrao Dadwa & Ors. deals with Article 137 of Constitution of India read with Supreme Court Rules, 1966. It has been held that when SLP has been dismissed in limine but keeping in view that in another case involving similar facts and issues, relief had been granted and that after the dismissal of the SLP, Government issued an order which supported the petitioners' case, review was allowed. In our considered view, the review petitioner cannot get any support from the said authority for the reason that neither that was a case of second review nor a case in which narration of prosecution case entitled the applicant to have review of the order passed in OA. and thereafter in review.

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10. In our considered view, the Review Application is nothing but a misuse of the process of the Tribunal, it deserves to be dismissed and is dismissed with cost amounting to Rs.1,000/payable by the Review Petitioner to the respondents within one month from the date of receipt of a copy of this order.

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(SMT.SHANTA SHAstry)

(S.L.JAIN)

MEMBER (A)

MEMBER (J)

mr.j.

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order/Judgment is attached
to Applicant/Respondent(s)
on 08/11/01

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