

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH, 'GULESTAN' BUILDING NO.6
PRESCOT ROAD, MUMBAI-1

REVIEW PETITION No. 26 of 1997

in

ORIGINAL APPLICATION NO. 1014/95

DATED : 3rd APRIL, 1997

K.G. Hilay

..Applicant

V/s.

Union of India

through the Secretary

Ministry of Finance

Department of Economic Affairs

New Delhi & 2 ors.

..Respondents

ORDER IN REVIEW PETITION
NO. 26/97 in ORIGINAL
APPLICATION NO. 1014/95

(BY CIRCULATION)

ORDER

(Per: P.P. Srivastava, Member(A))

... contd.

DATED: 3.4.1997

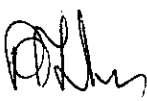
The power of review is required to be exercised on the discovery of new and important matter or evidence which, after the exercise of due diligence was not within the knowledge of the person seeking the review or could not be produced by him at the time when the order was made or the review may be exercised where some mistake or error apparent on the face of the record is found. In the present case the respondents have filed this Review Petition No. 26/97 against our order dated 23rd September, 1996 on the ground that there is an error apparent on the face of the record. However, the petitioners in this R.P. have not been able to show any error which is apparent on the face of the record.

The Review Petitioners have brought out in the Review Petition in para 5 that there are certain OMs dated 9.3.92 and 27.3.93, placed at Exhibit R-2, according to which the damage rent can be worked out in terms of SR-317-B-22. It is seen from para 6 of the judgment dated 23.9.96 that the counsel for respondent administration, who are the petitioners in this Review Petition, was asked to produce the circular to show that the recovery of the penal rent for

both the quarters is according to the rules. The Tribunal has observed in para 6 as under:

"Now, the learned counsel for the respondents has produced the circular with the copy of SR-317-B-22. It is seen from the circular that the "officer shall be liable to pay damages for use and occupation of the residence, services, furniture and garden charge as may be determined by the Government from time to time, or twice of licence fee he was paying, whichever is higher". Therefore, all that the administration under this SR can do is charge twice the licence fee from the applicant which the applicant has not vacated. In view of the clear provision of rules which are produced by the counsel for the respondents, I am of the view that the respondent administration can charge rent only [#]interms of circular by which they can charge as damages twice rent the applicant was paying."

Since the respondent administration was given enough opportunities to produce the circular, which they have done by producing circular which was a copy of SR.317-B-22, I am of the opinion that the circulars which now the



respondent Administration wants to produce i.e., circulars dated 9.3.92 and 27.3.92, were certainly available with the administration and ~~SA~~ould have been produced with due diligence. Failure of the respondent administration in producing these circulars at the time of hearing, despite grant of time, would not entitle the respondent administration to bring the circulars through review petition and seek review of the order.

The present case is not, therefore, covered by the narrow jurisdiction which has been available in the process of review. The R.P. is therefore dismissed along with M.P. 143/97.



(P.P. Srivastava)
Member(A)

dd. 3/4/97
Order/Judgment despatched
to Applicant/Respondent(s)
on 22/4/97

23/4/97