

CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH

R.P. NO. 16/2003
in

OPEN COURT / PRE DELIVERY JUDGMENT IN OA 701/98.

Hon'ble Vice Chairman / Member (J) / Member (A)

may kindly see the above Judgment for
approval / signature.

W.M. [Signature]
(S. G. Deshmukh)
V.C. Member (J) / Member (A)

Hon'ble Vice Chairman

Hon'ble Member (J)

(Shri Anand Kumar Shastri)
Hon'ble Member (A)

I agree

Sh. 31/1

CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH

R.P. NO.: 16/2003 IN O.A. NO. 701/98.

Dated this Friday the 2nd day of January, 2004.

CORAM : Hon'ble Shri Anand Kumar Bhatt, Member (A).
Hon'ble Shri S. G. Deshmukh, Member (J).

Mrs. I. M. Fernandes ... Applicant.
(In person)

VERSUS

Union of India & others ... Respondents.
(By Advocate Shri V. S. Masurkar)

ORDER ON REVIEW PETITION

PER : Shri S. G. Deshmukh, Member (J).

This is a Review Petition filed by the original applicant for reviewing the order dated 08.01.2003 in O.A. No. 701/1998 for correcting the errors and omission mentioned in para 2 (a) to para 2(m).

2. The applicant had filed an O.A. bearing No. 701/98 challenging the order imposing penalty of compulsory retirement dated 31.05.1997 and Appellate Order dated 16.08.1997. The Tribunal has allowed the O.A. on 08.01.2003 by quashing the order of the Appellate Authority dated 16.08.1997 passed in appeal and directed the Appellate Authority to dispose of the appeal afresh in the light of the observations in the order by giving an opportunity to the applicant of personal hearing, within a period of four months from the date of receipt of certified copy of the order. It was also ordered that applicant shall not be dispossessed from the quarter allotted to her by Railways, unless she has already been dispossessed, for a period of two weeks from the date of disposal of appeal.

3. In Ajit Kumar Rath V/s. State of Orissa & Others [1999 AIR SCW 4212] the Apex Court has observed as follows :

"The provisions of S.22(3)(f) indicate that the power of review available to the Tribunal is the same as has been given to a Court under S. 114 read with O.47, C.P.C. The power is not absolute and is hedged in by the restrictions indicated in O.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 O.47, R.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."

As per Order 47, Rule 1, it is only "person aggrieved" by an order can apply for review. A person aggrieved means a person who has suffered a legal grievance, man against whom decision has been pronounced which has wrongfully deprived him of something or wrongfully refused him something.

4. In the instant case, the O.A. was filed by the petitioner herself for quashing and setting aside the order imposing penalty of compulsory retirement. The said O.A. is allowed by the Tribunal and the order of the Appellate Authority has been quashed and set aside and the Appellate Authority has been directed to dispose of the appeal afresh. Thus, the order in the

O.A. in question is in favour of the applicant. The applicant cannot be said to be an aggrieved person by the order in question. As per Order 47, Rule 1, only persons aggrieved by the order can apply for review.

5. The petitioner is claiming review of the order correcting the errors and omissions mentioned in para 2(a) to 2(m) in the Review Petition. After going through the Review Petition there appears no mistake or error apparent on the face of the record. 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. There is no sufficient ground for review of the order in question. We cannot, under cover of review, arrogate to itself the power to decide the case over again. The review cannot be claimed for fresh hearing or arguments or the correction of the view taken in the order.

6. The R.P. is devoid of merits and is accordingly dismissed.

S. G. DESHMUKH
(S. G. DESHMUKH)
MEMBER (J).

Anand Kumar Bhatt
(ANAND KUMAR BHATT)
MEMBER (A).

OS*

R.P. order.
Issued on - 6/1/04

K. S. S.