

**CENTRAL ADMINISTRATIVE TRIBUNAL
JAIPUR BENCH**

**Misc. Application No. 334 of 2013 &
R.A.No.17 of 2013**

In O.A.NO. 570 of 2011 Date of Order:- October 11 , 2013.

Coram: Hon'ble Mr. Sanjeev Kaushik, Member (J).

Smt. Sukkho

..... Applicant

Versus

Union of India & Ors.

...Review Applicants/Respondents

ORDER.

Hon'ble Mr. Sanjeev Kaushik, Member (J):

The present Review Application has been filed by the respondents under Section 22(3)(f) of the Administrative Tribunals Act, 1985, seeking review of order dated 9.7.2013 vide which the O.A was disposed of by quashing the impugned order dated 22.2.2002 with further direction to the respondents not to recover the amount from the gratuity. The review applicants/respondents in the O.A. have also filed a Misc. Application for condonation of delay.

2. As far as the delay in filing of R.A is concerned, the same is condoned for the reasons mentioned in the Misc. Application No.334 of 2013.

3. The present Review Application is disposed of under circulation in terms of Rule 17(3) of the Central Administrative Tribunal (Procedure) Rules, 1987.

4. I have perused the averments made in the Review Application. The respondents have raised the same issues which have already been dealt with in the O.A. Primarily, the respondents have filed the present the Review Application for re-hearing of the case which is not within the scope of review. The respondents in the Review Application has stated that the order dated 9.7.2013 is contrary to the settled principle of law. They have further averred that the husband of the applicant was never granted gratuity at the time of removal or subsequently during his life time. They have also stated that the recovery so affected was due from the husband of the applicant and as such, notice, if any, was to be served upon him.

5. The term 'mistake or error apparent' by its very connotation signifies an error which is evident per se from the record of the case and does not require detailed examination, scrutiny and elucidation either of the facts or the legal position. If an error is not self-evident and detection thereof requires long debate and process of reasoning, it cannot be treated as an error apparent on the face of the record for the purpose of Order 47 Rule 1 CPC or Section 22(3) (f) of the Act. To put it differently an order or decision or judgment cannot be corrected merely because it is erroneous in law or on the ground

that a different view could have been taken by the Court/Tribunal on a point of fact or law. In any case, while exercising the power of review, the concerned Court/Tribunal cannot sit in appeal over its judgment/decision.

6. I may now notice some of the judicial precedents in which Section 114 read with Order 47 Rule 1 CPC and/or Section 22 (3) (f) of the Act have been interpreted and limitations on the power of the Tribunal to review its judgment/decision have been identified. In the case of **K. Ajit Babu and others vs. UOI & Others** [1997 (6) SCC 473], it was held that even though Order 47 Rule 1 is strictly not applicable to the Tribunals, the principles contained therein have to be extended to them, else there would be no limitation on the power of review and there would be no certainty or finality of a decision.

In the case of **Ajit Kumar Rath vs State of Orissa and others** [1999 (9) SCC 596], the Hon'ble Apex Court has again reiterated that power of review vested in the Tribunal is similar to the one conferred upon a Civil Court. The relevant portion of the judgment reads as follows :

"The provisions extracted above indicate that 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 judgment."

[Emphasis added]

In the case of **State of Haryana and Others vs. M.P. Mohla** [2007 (1) SCC 457], the Hon'ble Court has held as under:-

"A review petition filed by the appellants herein was not maintainable. There was no error apparent on the face of the record. The effect of a judgment may have to be considered afresh in a separate proceeding having regard to the subsequent cause of action which might have arisen but the same by itself may not be a ground for filing an application for review."

In the case of **Gopal Singh Vs State Cadre forest Officers' Assn. and others** [2007 (9) SCC 369], the lordships of the Supreme Court have held that after rejecting the Original Application filed by the appellant, there was no justification for the Tribunal to review its order

and allow the review of the appellant. Some of the observations made in that judgment are extracted below:

"The learned counsel for the State also pointed out that there was no necessity whatsoever on the part of the Tribunal to review its own judgment. Even after the microscopic examination of the judgment of the Tribunal we could not find a single reason in the whole judgment as to how the review was justified and for what reasons. No apparent error on the face of the record was pointed, nor was it discussed. Thereby the Tribunal sat as an appellate authority over its own judgment. This was completely impermissible and we agree with the High Court (Justice Sinha) that the Tribunal has traveled out of its jurisdiction to write a second order in the name of reviewing its own judgment. In fact the learned counsel for the appellant did not address us on this very vital aspect."

7. The principles which can be culled out from the above noted judgments are:-

(i) An error which is not self-evident and which can be discovered by a long process of reasoning, cannot be treated as an error apparent on the face of record justifying exercise of power under Section 22(3)(f).

(ii) An erroneous order/decision cannot be corrected in the guise of exercise of power of review.

(iii) A decision/order cannot be reviewed under Section 22 (3) (f) on the basis of subsequent decision/judgment of a coordinate or larger bench of the Tribunal or of a superior Court.

(iv) While considering an application for review, the Tribunal must confine its adjudication with reference to material which was available at the time of initial decision. The happening of some subsequent event or development cannot be taken note of for declaring the initial order/decision as vitiated by an error apparent.

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(v) Mere discovery of new or important matter or evidence is not sufficient ground for review.


In the case of State of West Bengal & Others versus Kamal Sengupta & Others (2008(8) S.C.C. Page 612), wherein the Hon'ble Apex Court observed as under :-


"15. The term 'mistake or error apparent' by its very connotation signifies an error which is evident per se from the record of the case and does not require detailed examination, scrutiny and elucidation either of the facts or the legal position. If an error is not self-evident and detection thereof requires long debate and process of reasoning, it cannot be treated as an error apparent on the face of the record for the purpose of Order 47 Rule 1 CPC or Section 22(3)(f) of the Act. To put it differently an order or decision or judgment cannot be corrected merely because it is erroneous in law or on the ground that a different view could have been taken by the Court/Tribunal on a point of fact or law. In any case, while exercising the power of review, the concerned Court/Tribunal cannot sit in appeal over its judgment/decision.

8. The uniform principle that runs through catena of decisions is that "a mistake apparent on record" must be obvious and apparent mistake and not something, which can be established by a long-drawn process of reasoning on points on which there may be conceivably two opinions.

9. Considering the Review Application at hand in the light of the aforesaid law enunciated by the Hon'ble Apex Court, I am of the considered opinion that the present Review Application does not meet the requirements of law. The point now raised in the Review

Application has already been considered and negotiated by placing reliance upon the judgments of Hon'ble Supreme Court. Therefore, we see no reason to review well reasoned order. Accordingly, the Review Application stand dismissed by circulation being devoid of merits.


(SANJEEV KAUSHIK)
MEMBER (J).

 Dated:- October 11, 2013.

Kks

