

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
JAIPUR BENCH, JAIPUR.

REVIEW APPLICATION NO. 291/00018/2014
IN
ORIGINAL APPLICATION No. 291/00391/2014

DATE OF ORDER: 15.09.2014

CORAM :

HON'BLE MR. ANIL KUMAR, ADMINISTRATIVE MEMBER

Heera Lal Bairwa son of Shri Ram Swaroop, aged about 58 years, resident of Plot No. 41-42, Raoji Ka Bagh, Kartarpura, Jaipur. Presently working as Section Supervisor, O/o Regional Provident Fund Commissioner, Nidhi Bhawan, Jyoti Nagar, Jaipur.

... Applicant

Versus

1. Union of India through the Secretary (L&E)/Chairman, EC, CBT, Employees Provident Fund Organization, 14, Bhikaji Cama Palace, New Delhi 110066.
2. The Regional Provident Fund Commissioner, Employees Provident Fund Organization, Nidhi Bhawan, Jyoti Nagar, Jaipur.
3. The Assistant Provident Fund Commissioner (Adm.), Employees Provident Fund Organization, Nidhi Bhawan, Jyoti Nagar, Jaipur.

... Respondents

ORDER (CIRCULATION)

The applicant has filed the present Review Application against the order dated 05.09.2014 passed in OA No. 291/00391/2014 with MA No. 291/00332/2014 (Heera Lal Bairwa vs. Union of India & Others). He prayed for review on the ground that the order dated 05.09.2014 suffers from an error apparent on the face of record because the applicant has less than two years in his retirement but the Tribunal has not considered this aspect of the matter. That the applicant is working as Section Supervisor on stop gap arrangement basis and, therefore, cannot be transferred. Moreover, there was no statistics to record the fact that 23% of

Anil Kumar

the Section Officers were in the age group of 57 years and above. That Shri Om Prakash Sharma and Shri Gaurav Pradhan were exempted from transfer without any justification. Therefore, the order dated 05.09.2014 may be reviewed by recalling the same.

2. I have carefully perused the Review Application and the grounds taken therein. I have also perused the order dated 05.09.2014 passed in OA No. 291/00391/2014 with MA No. 291/00332/2014. I do not find any error of fact or law on the face of it. This Review Application has been filed basically with the intention to re-open the matter again. The fact and the legal position have been discussed in the order in detail and I do not find any merit in the Review Application.

3. The Hon'ble Apex Court in the case of **Smt. Meera Bhanja vs. Nirmal Kumari**, AIR 1995 SC 455, observed that reappreciating facts/law amounts to overstepping the jurisdiction conferred upon the Courts/Tribunals while reviewing its own decision. In the present application also, the applicant is trying to claim reappreciation of the facts/law which is beyond the power of review conferred upon the Tribunal as held by Hon'ble Supreme Court.

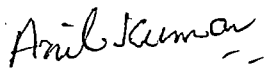
4. The Hon'ble Apex Court has categorically held that the matter cannot be heard on merit in the guise of power of review and further if the order or decision is wrong, the same cannot be corrected in the guise of power of review. What is the scope of Review Petition and under what circumstance such power can be exercised was considered by the Hon'ble Apex Court in the case of

Anil Kumar

Ajit Kumar Rath Vs. State of Orissa, (1999) 9 SCC 596 wherein the Apex Court has held as under:

"The power of the Tribunal to review its judgment is the same as has been given to court under Section 114 or under Order 47 Rule 1 CPC. The power is not absolute and is hedged in by the restrictions indicated in Order 47 Rule 1 CPC. 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 of fact or error apparent on the face of 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 fact without any elaborate argument being needed for establishing it. It may be pointed out that the expression 'any other sufficient reason' used in Order XLVII Rule 1 CPC means a reason sufficiently analogous to those specified in the rule".

5. I do not find any patent error of law or facts in the order dated order dated 05.09.2014 passed in the OA No. 291/00391/2014 (Heera Lal Bairwa vs. Union of India & Others). Therefore, in view of the law laid down by the Hon'ble Apex Court, I find no merit in this Review Application and the same is accordingly dismissed.


(ANIL KUMAR)
MEMBER (A)

Abdul