

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,  
JAIPUR BENCH

JAIPUR, this the <sup>6<sup>th</sup></sup> day of ~~May~~<sup>June</sup>, 2010

Review Application No. 4/2010  
(Original Application No.171/2010)

S.K.Nagarwal,  
51, Sitaram Colony,  
Ram Nagar,  
Sodala, Jaipur

.. Applicant

(By Self))

Versus

1. The General Manager,  
North Western Railway,  
HQ Office,  
Hasanpura Road,  
Jaipur.

... Respondents

O R D E R (By Circulation)

This Review Application has been filed by the applicant for reviewing the judgment dated 1.4.2010 whereby the Original Application of the applicant was dismissed. The applicant had filed OA praying for setting aside the order dated 10.8.2009 whereby Enquiry Officer was appointed to enquire into the charges ~~framed~~ framed against the applicant and another letter dated 19.2.2010 whereby written statement of defence as submitted by the applicant was considered and it was decide to proceed with the

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Tribunal after taking into consideration the submissions made by the applicant, who was present in person, has dismissed the OA by the aforesaid order.

2. Now by way of this Review Application the applicant has tried to challenge the findings given by this Tribunal on merits. According to us, such a course is not permissible for the applicant in view of the settled law where the scope of review has been considered by the Apex Court. 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 Ajit Kumar Rath Vs. State of Orissa, (1999) 9 SCC 596 and 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 fact 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 XL VII Rule 1 CPC means a reason sufficiently analogous to those specified in the rule".

Further, the Apex Court in the case of State of West Bengal and Ors. vs. Kamal Sengupta and Anr., (2008) 2 SCC (L&S) 735 in para 35 has culled out 8 principles on the basis of the earlier judgments rendered by the Apex Court and *sine qua non* for

exercising the power of review is that order/judgment should suffer from any patent mistake or an error apparent so as to warrant its review under Section 22(3)(f) of the Act. It has specifically been mentioned in para 35 of the judgment that an erroneous order/decision cannot be corrected in the guise of exercise of power of review.


3. Thus, in view of the settled law as reproduced above, it is not permissible for the applicant to question the legality and validity of the judgment of this Tribunal on merit. In case the judgment of this Tribunal is wrong, the Review Applicant is not without remedy and, in that eventuality, it is open for the applicant to challenge the judgment of this Tribunal in higher forum. We wish to mention here that the applicant has not challenged validity of the chargesheet/charge-memo in the OA on merit and grievance of the applicant in the OA was confined only to the appointment of the Enquiry Officer and not considering reply to the chargesheet in right perspective. Thus, once the applicant has not challenged issuance of the chargesheet on merit and even according to the applicant, such a chargesheet could have been issued on the basis of the allegations leveled against the applicant, in that eventuality, in order to ascertain the correctness of the allegations against the applicant it was necessary that enquiry has to be held by appointing Enquiry Officer. If the matter is considered in this context, the endeavor of the applicant appears to linger on the enquiry for no rhyme or reason. It is settled position that where the allegations leveled in the chargesheet are not disputed, the only course

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permissible in law is to hold enquiry by appointing Enquiry Officer to ascertain the truth of charges.

4. For the foregoing reasons, the Review Application is bereft of merit, which is accordingly dismissed by circulation.

  
(B.L. KHATRI)  
Admv. Member

  
(M.L. CHAUHAN)  
Judl. Member

R/