

**Central Administrative Tribunal
Jaipur Bench, Jaipur**

R.A.No.5/2011 in T.A.No.461/2009

This the 5th day of May 2011

Hon'ble Shri M.L. Chauhan, Member (J)
Hon'ble Shri Anil Kumar, Member (A)

Parmanand Sharma s/o late Shri Laxminarayan Sharma
r/o 345, Shri Gopal Nagar
Gopalpura Bypass and presently retired CSS Bharat
Sanchar Nigam Ltd., Jaipur

..Applicant

Versus

1. Bharat Sanchar Nigam Ltd. through
Managing Director,
Bara Khamba Road, New Delhi-1
2. Principal General Manager,
Bharat Sanchar Nigam Ltd. Opp. GPO
MI Road, Jaipur
3. Divisional Engineer Phones Bharat Sanchar
Nigam Ltd.,
Durgapura, Jaipur
4. Sub Divisional Officers Phones 1st
Bharat Sanchar Nigam Ltd.
Durgapura, Jaipur

..Respondents

ORDER (in circulation)

Shri M.L. Chauhan:

The applicant has filed this review application against the judgment rendered by this Tribunal in TA 46/2009 on 17.2.2011, whereby the TA of the applicant was dismissed and it was categorically held that it was permissible for the trial court to give direction to the

by

department to proceed further on the basis of charge sheet issued under Rule 16 of CCS (CCA) Rules, 1965 once the punishment order as well as appellate order in the earlier departmental proceedings were quashed and also that the present departmental proceedings and the subsequent charge sheet dated 14.10.2008 was signed by the Divisional Engineer Phones, Jaipur being a competent authority.

2. By way of this review application, the applicant has again raised the contention on merit that such a finding could not have been given and the Tribunal has not considered the question of competency. The applicant has also tried to raise the contention on merit that he was falsely implicated in a false case and also that the respondents have illegally withheld the amount of commuted value of pension, DCRG, etc., which was not an issue involved in the case, as the judgment of the trial court was challenged by the applicant only on two grounds, namely, that no direction could have been given by the Additional Civil Judge to proceed with further inquiry once the charge sheet has been quashed and secondly that the subsequent charge sheet has also

been issued by the incompetent authority, which contention has been noticed in paragraph 1 at internal page 3 of the judgment.

3. It can be seen from the ground raised in the review application that the applicant has retired on 31.7.2009, as such question of gratuity and payment of leave encashment after his retirement could not have been made a ground of challenge against the judgment of the trial court by filing appeal in the year 2008 before the District and Sessions Judge, which appeal was subsequently transferred to the Tribunal.

4. The contention raised by the applicant that the aforesaid grounds constitute an error apparent on the face of record has to be out rightly rejected. In fact, what the applicant wants by way of this review application is that the judgment may be recalled and the matter be again heard on merit, which is not permissible.

5. Admittedly, the review application is not being sought on the ground of discovery of new material or

evidence. Further, 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 Order 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 a different view could have been taken by the court/tribunal on a point of fact or law. While exercising the power of review, the court/tribunal concerned cannot sit in appeal over its judgment/decision. If the matter is considered in the aforesaid legal proposition, we are of the view that the applicant has not made out any case for reviewing the judgment dated 17.2.2011.

6. Two contentions raised by the applicant have been dealt with by the Tribunal by holding that it was permissible for the trial court to give direction regarding issuance of fresh charge sheet once the earlier charge

sheet has been quashed and also that the fresh charge sheet issued by the Department pursuant to the direction given by the trial court has been signed by the Divisional Engineer Phones, Jaipur being the competent authority. This finding has been recorded in paragraph 3 of internal page 4 of the judgment. In case the applicant is aggrieved by the finding so recorded by this Tribunal, it was open for him to challenge the judgment passed by this Tribunal and certainly the applicant has not made out any case for reviewing the judgment in terms of the provisions contained in Section 22 (3) (f) of Administrative Tribunals Act, 1985 read with Order 47 Rule 1 CPC.

7. Accordingly, the review application is dismissed by circulation.

Anil Kumar
(Anil Kumar)
Member (A)

/sunil/

M. L. Chauhan
(M. L. Chauhan)
Member (J)