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CENTRAL ADMINISTRATIVE TRIBUNAL
JAIPUR BENCH, JAIPUR

ORDERS OF THE BENCH

16.08.2011

MA 153/2011 (RA 06/2011) (OA No. 92/2007)

None present for applicant.

Mr. V.S. Gurjar, Proxy counsel for

Mr. Hawa Singh, Counsel for respondents.

Put up on 09.09.2011. In the meanwhile, the applicant may file rejoinder, if any.

Anil Kumar

(ANIL KUMAR)

MEMBER (A)

K.S. Rathore

(Justice K.S. Rathore)

MEMBER (J)

AHQ

Rejoinder
not filed

[Signature]

9.9.2011

Mr. N.K. Gautam, Counsel for applicant
Mr. Hawa Singh, Counsel for respondents

MA No. 153/2011 for restoration of

RA 6/2011 allowed. The RA is restored
to its original number.

The MA stands disposed of
accordingly.

Heard on RA. The RA is disposed
of by a separate order.

Anil Kumar

(Anil Kumar)

M (A)

K.S. Rathore

(Justice K.S. Rathore)

M (J)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
JAIPUR BENCH

Jaipur, this the 9th day of September, 2011

Misc. Application No.153/2011 (in RA No.6/11)
Misc. Application No.113/2011 (in RA No.6/2011)
Review Application No.6/2011 (OA No.92/2007)

CORAM:

HON'BLE MR. JUSTICE K.S.RATHORE, MEMBER (JUDL.)
HON'BLE MR. ANIL KUMAR, MEMBER (ADMV.)

H.A.Browne
s/o N.P.Browne,
Retd. S.S.Railway Station Bar,
Ajmer Division – (Decased)
through his legal representative
Mrs. Queene w/o late Shri H.A.Browne,
r/o 86,/10 Isa Bhawan,
Civil Lines, Ajmer.

.. Applicant

(By Advocate: Shri N.K.Gautam)

Versus

1. Union of India
through General Manager,
North Western Railway,
Jaipur
2. Divisional Railway Manager,
North Western Railway,
Ajmer.

.. Respondents

(By Advocate: Shri Hawa Singh)

ORDER (ORAL)

Heard on Misc. Application No.153/2011 for restoration of Review Application No. 06/2011 to its original number. Having considered the submissions made on behalf of the applicant, we are fully satisfied with the reasons stated in the restoration application. The restoration application is allowed and the Review Application is restored to its original number. Misc. Application No.153/2011 stands disposed of accordingly.

2. We have also heard on the Misc. Application No.113/2011 filed for bringing the legal representative of the applicant late Shri H.A.Browne on record. Since the applicant has expired on 28.2.2011, therefore, the legal representative of the deceased applicant Smt. Queene w/o late Shri H.A.Browne is taken on record. The Misc. Application No.113/2011 is allowed and stands disposed of accordingly.

3. In Review Application No. 06/2011, the applicant has prayed for reviewing/recalling the order dated 21.3.2011 passed in OA No.92/2007, H.A.Browne vs. Union of India and Anr.

4. We have heard the learned counsel for the respective parties and perused the averments and the grounds raised in the Review Application as well as the order passed by this Tribunal in the Original Application No. 92/2007. In our considered view, the averments made and the grounds taken in the Review Application are beyond the limited scope of Review Application, as provided under law.



5. The law on this point is already settled and the Hon'ble Supreme 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 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 XL VII Rule 1 CPC means a reason sufficiently analogous to those specified in the rule".



6. In view of the ratio decided by the Hon'ble Supreme Court, we find no merit in this Review Application and the same is accordingly dismissed.

Anil Kumar

(ANIL KUMAR)
Admv. Member

R/

12. S. Rathore

(JUSTICE K.S.RATHORE)
Judl. Member