

**CENTRAL ADMINISTRATIVE TRIBUNAL
JAIPUR BENCH, JAIPUR**

Review Application No.291/00007/2014

In

Original Application No. 598/2013

Date of order : 15.7.2014

**CORAM : HON'BLE SHRI ANIL KUMAR, MEMBER (A)
HON'BLE SHRI M.NAGARAJAN, MEMBER (J)**

Jaswinder Singh, son of Shri Karam Singh, R/o 51 , Pratap Nagar,
Khatipura Road, Jaipur -302 021, presently working as Post Master
General (B&M), Rajasthan Circle, Jaipur – 302 207.**Applicant**

V/s.

1. Union of India, through its Secretary, Department of Posts,
Dak Bhawan, Sansad Marg, New Delhi – 110 116.
2. Assistant Director General (SGP), Department of Posts, Dak
Bhawan, New Delhi – 110 116.
3. Assistant Post Master General (Staff), O/o. Chief Post Master
General, Maharashtra Circle, Mumbai – 400 001.

....Respondents

PER : HON'BLE SHRI M.NAGARAJAN, MEMBER (J)

ORDER BY CIRCULATION

The present review application has been filed by the applicant
for reviewing/ recalling the order dated 12-3-2014 passed in O.A.
No.598/2013 which is as to rejection of his request for issuing No
Objection Certificate (NOC) for acquiring personal Indian Passport.

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His request for issuing NOC to acquire a personal Indian Passport was rejected by the respondents under the order dated 07-8-2013 which is impugned in the said OA No.598/2013.

2. On a perusal of the pleadings of the review application, we found that the applicant is trying to reopen all the issues decided by the Tribunal in the said OA No.598/2013. The Hon'ble Supreme Court in the case of *State of West Bengal & others v. Kamal Sengupta and another* (2008) 3 AISLJ 209 has held that the Tribunal can exercise the powers of a Civil Court in relation to matters enumerated in clauses (a) to (i) of sub-section (3) of Section 22 of the Administrative Tribunals Act including the power of reviewing its decision. By referring to the power of a Civil Court to review its judgment/decision under Section 114 CPC read with Order 47 Rule 1 CPC, the Hon'ble Supreme Court laid down the principles subject to which the Tribunal can exercise the power of review. At para 28 of the said judgment the Hon'ble Supreme Court culled out the principles which are:

- “(i) The power of the Tribunal to review its order/decision under Section 22(3)(f) of the Act is akin/analogous to the power of a Civil Court under Section 114 read with Order 47 Rule 1 CPC.
- (ii) The Tribunal can review its decision on either of the grounds enumerated in Order 47 Rule 1 and not otherwise.
- (iii) The expression “any other sufficient reason” appearing in Order 47 Rule 1 has to be interpreted in the light of other specified grounds.
- (iv) An error which is not self-evident and which can be discovered by a long process of reasoning, cannot be treated as an error

T. L. S. P.

apparent on the face of record justifying exercise of power under Section 22(3)(f).

- (v) *An erroneous order/decision cannot be corrected in the guise of exercise of power of review.*
- (vi) *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.*
- (vii) *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.*
- (viii) *Mere discovery of new or important matter or evidence is not sufficient ground for review. The party seeking review has also to show that such matter or evidence was not within its knowledge and even after the exercise of due diligence, the same could not be produced before the Court/Tribunal earlier."*

3. Further, the Hon'ble Supreme Court in the case of *Ajit Kumar Rath v. State of Orissa*, (1999) 9 SCC 596 has categorically held that a matter cannot be heard on merit in the case of power of review and if the order or decision is wrong, the same cannot be corrected under the guise of power of review. What is scope for review petition and under what circumstances such power can be exercised was considered by the Hon'ble Apex Court in *Ajit Kumar Rath's* case (*supra*) and 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 the record or for any other sufficient reason. A review cannot be claimed or asked for merely for a

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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 47 Rule 1 CPC means a reason sufficiently analogous to those specified in the rule."

4. We may also add that the Hon'ble Supreme Court in the case

of *Meera Bhanja (Smt) v. Nirmala Kumari Choudhury (Smt)* (1995)

1 SCC 170 held as under :

"The review proceedings are not by way of an appeal and have to be strictly confined to the scope and ambit of Order 47, Rule 1, CPC. The review petition has to be entertained only on the ground of error apparent on the face of record and not on any other ground. An error apparent on the face of record must be such an error which must strike one on mere looking at the record and would not require any long-drawn process of reasoning on points where there may conceivably be two opinions. The limitation of powers of court under Order 47 Rule 1, CPC is similar to the jurisdiction available to the High Court while seeking review of the orders under Article 226."

5. The main ground urged by the applicant in support of his

prayer for reviewing the order is as under :

"This Order of the Tribunal does not ameliorate the grievance of the applicant as NOC is essential for reissue of Passport as per extant instructions of M.E.A."

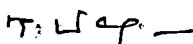
The other ground urged by the applicant is that the Order of the Tribunal dated 12-3-2014 is silent about the applicability of the extant order of MEA as contained in its O.M. No.VI/401/01/05/2008 dated 05-10-2009 (Annexure-A/5) on the subject of "Issue of Ordinary Passport to Central & State Government Servants-

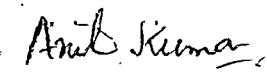
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Requirement of Identity Certificate (IC) or No Objection Certificate (NoC)".

The aforesaid grounds cannot be a ground at all for reviewing the order of the Tribunal. In the opinion of the applicant, the order of the Tribunal is an erroneous order/decision. But, that the same cannot be corrected in the guise of exercise of power of review.

6. Thus by applying above principles to the facts and circumstances and the grounds urged by the applicant in support of his prayer to review the order dated 12-3-2014 in the said O.A. No.598/2013, we do not find any patent error of law or fact in the order dated 12-3-2014 in the said O.A. No.598/2013 which is sought to be reviewed. Therefore, in view of the law laid down by the Hon'ble Apex Court, we find no merit in this review application and thus, the review application is required to be dismissed and accordingly the same is dismissed.


(M.Nagarajan)
Member(J)


(Anil Kumar)
Member(J).

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