

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
JAIPUR BENCH

Jaipur, this the 12th day of October, 2009

RA No.08/2009 (OA No.463/2005)

Nathu Lal Mahawar s/o Late Shree Radha Kishan r/o 182/128, RHB,
Pratap Nagar, Sanganer, Jaipur, last employed as Senior
Accountant in the office of Accountant General (A&E) Rajasthan,
Jaipur

Applicant

(By Advocate: Shri S.K.Vyas)

Versus

1. Comptroller and Auditor General of India, 9, Deen Dayal Upadhyaya Marg, New Delhi.
2. Accountant General (A&E) Rajasthan, Jaipur
3. Deputy Accountant General (Admn.), O/o Accountant General (A&E) Rajasthan, Jaipur
4. Senior Account Officer (M.C.Saxena) O/o Accountant General (A&E), Rajasthan, Jaipur

Respondents

ORDER (By Circulation)

The applicant has filed this Review Application against the order/judgment dated 31st August, 2009 passed in OA No.463/2005 whereby the OA of the applicant was dismissed. As can be seen from the averments made in the Review Application, the review is not sought on the ground of discovery of new material/ evidence or mistake or error apparent on the face of record, but the judgment of this Tribunal is being challenged on the ground that the view taken by this Tribunal is not correct.

2. In the grounds of review, the contention raised by the review applicant is that the judgment of the Andhra Pradesh High Court in

the case of K.Venkateswarlu vs. Nagarjuna Grameena Bank, (1995)

(6) SLR AP 223 is not applicable in the facts and circumstances of this case which held that the penalty can be imposed on the basis of admission of guilt in reply to the chargesheet, whereas this Tribunal has not only relied upon the judgment of the Andhra Pradesh High Court in the case of K.Venkateswarlu but has also referred to other judgments one of which was rendered by the Hon'ble Apex Court in the case of Swadesh Pal Baliyan vs. Air Force Commanding-in-chief, 2005 (1) SLJ 285 as has been noticed in para 7 of the judgment. Further contention raised in the Review Application is that the Inquiry Officer has recommended dropping of the charges and no inquiry report was given to the applicant, whereas this Tribunal has categorically held that the Inquiry Officer has on the basis of the categorical admission made by the applicant that he admits the charges and the enquiry may not be proceeded held that in view of the admission made by the applicant and the facts that he has already deposited the amount, in his opinion there is no need to further proceed in the matter. Since the Inquiry Officer has not proceeded in the matter further, as such, there was no enquiry report which could have been supplied to the applicant. Further ground taken by the review applicant is that admission made by the applicant was not voluntary and he has been discriminated in the matter of awarding of penalty vis-à-vis Shri Ramji Lal Verma. This Tribunal has categorically held that the charges leveled against Shir Ramji Lal Verma were different as against the applicant, as such, it was not a case of discrimination

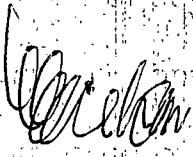
and further this Tribunal has also held that the applicant has not mentioned name of authority who has given such assurance which resulted into admission of guilty in para -8 of the judgment.

3. Thus, from the facts as stated above, it is evident that the review is sought by the applicant on the ground that the judgment rendered by this Tribunal is not correct, which cannot be a ground for reviewing the judgment. In fact, the applicant wants re-hearing of the matter which is not permissible in terms of provisions contained in Order 47 Rule 1 CPC and Section 23(3)(f) of the Administrative Tribunals Act, 1985. It is also equally settled that while exercising power of review Court or Tribunal cannot sit in appeal over its judgment/decision. In case the judgment was wrong, it was open for the review applicant to challenge the same before the higher forum and certainly the power of review cannot be invoked in such matters. The view which we have taken is in consonance with the law laid down by the Apex Court in the case of State of West Bengal and Others vs. Kamal Sengupta and Another, (2008) 2 SCC (L&S) 735.

4. Thus, for the foregoing reasons, the present Review Application is wholly misconceived, which is accordingly dismissed by circulation.


(B.L.RATHATRI)
Admv. Member

R/


(M.L.CHAUHAN)
Judl. Member