

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
JAIPUR BENCH, JAIPUR.

REVIEW APPLICATION NO. 291/00008/2014
IN
ORIGINAL APPLICATION No. 438/2010
With
MISC. APPLICATION NO. 291/00093/2014

DATE OF ORDER: 13.05.2014

CORAM :

HON'BLE MR. ANIL KUMAR, ADMINISITRATIVE MEMBER
HON'BLE MR. M. NAGARAJAN, JUDICIAL MEMBER

1. Shri Nawal Kishore Gupta son of Shri Radhey Shyam Agarwal, aged about 36 years, resident of Everest Vihar, Kings Road, Jaipur.
2. Jagan Lal Handonia son of Shri Bhura Ram, aged about 41 years, resident of 48 Kalyan Nagar, Rampura Road, Sanganer, Jaipur.

... Applicants

Versus

1. Union of India through the Central Provident Fund Commissioner, Bhavishya Nidhi Bhawna, 14, Bhikaji Cama Palace, New Delhi.
2. The Regional Provident Fund Commissioner, Nidhi Bhawan, Jyoti Nagar, Jaipur.

... Respondents

ORDER (CIRCULATION)

1. The applicants have filed this Review Application in OA No. 438/2010 along with MA No. 291/00093/2014 passed on 14.03.2014 (Annexure RA/1). The grounds taken by the applicants in the RA are that the name of applicant no. 1 was not deleted from the array of applicants in spite of his filing an MA No. 291/00093/2014.

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2. That the OA has been decided by the Tribunal in terms of the order passed in OA No. 211/2011 dated 13.09.2013 (Madan Lal Jolia vs. Union of India & Others) subject to the final outcome of the Writ Petition before the Hon'ble Rajasthan High Court at Jaipur whereas the fact of OA No. 211/2011 were different than the present OA.
3. That the Tribunal has failed to consider Para No. 3 of the Examination Scheme of 2002 which provides for determination of the vacancies.
4. That the learned Tribunal failed to discuss the judgments referred to by the learned counsel for the applicant in support of his contention
5. Therefore, there is an error on the face of record and hence the order be reviewed by recalling the same.
6. We have carefully gone through the order of this Tribunal in OA No. 438/2010 with MA No. 291/00093/2014. We are of the view that all the points raised by the applicants in this Review Application have been duly considered and thus there is no error either of fact or law in the order dated 14.03.2014. Therefore, the Review Application has no merit.
7. The Hon'ble Apex Court in the case of **Smt. Meera Bhanja vs. Nirmal Kumari**, AIR 1995 SC 455, observed that

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reappreciating facts/law amounts to overstepping the jurisdiction conferred upon the Courts/Tribunals while reviewing its own decision. In the present application also, the applicant is trying to claim reappreciation of the facts/law which is beyond the power of review conferred upon the Tribunal as held by Hon'ble Supreme Court.

8. The Hon'ble Apex 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".

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9. We do not find any patent error of law or facts in the order dated order dated 14.03.2014 passed in the OA No. 438/2010 along with MA No. 291/00093/2014 (Kailash Chand Sharma & Others vs. Union of India & Others). Therefore, in view of the law laid down by the Hon'ble Apex Court, we find no merit in this Review Application and the same is accordingly dismissed.

म. नारायण
(M. NAGARAJAN)
MEMBER (J)

अनिल कुमार
(ANIL KUMAR)
MEMBER (A)

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