

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
JAIPUR BENCH

JAIPUR, this the 24th day of September, 2013

Review Application No. 08/2013
in
(Original Application No. 810/2012)
And
Original Application No. 80/2013
With
Misc. Application No. 255/2013

CORAM

Hon'ble Mr. Anil Kumar, Administrative Member
Hon'ble Mr. V. Ajay Kumar, Judicial Member

1. Nannu Mal Pahadia son of Late Shri Chhotelal, aged about 50 years, resident of 220, Shrigopal Nagar, Near Mahesh Nagar, Jaipur.
2. Virendra Singh Bankawat son of Shri Chaturbhuj Singh aged about 52 years, resident of 52/38, Kshipra Path, Mansarovar, Jaipur.
3. Ram Chandra Dhenwal son of Shri Kishan Lal, aged about 53 years, resident of C-3/82, Chitrakoot, Vaishali Nagar, Jaipur.
4. Prem Chand Berwal son of Late Shri Atma Ram Berwal, aged about 51 years, resident of C-3/133, Chitrakoot, Vaishali Nagar, Jaipur.
5. Kailash Chandra Bairwa son of Shri Panchu Lal aged about 51 years, resident of 95, Mahaveer Nagar-II, Durgapura, Maharani Farm, Jaipur.
6. Gajanand Sharma son of Shri Ghisa Lal Sharma, aged about 51 years, resident of Plot No. 100, Panchsheel Enclave, Near Hotel Clarks Amer, J.L.N. Marg, Jaipur.
7. Pradeep Kumar Borad son of Shri Duli Chand Borad, aged about 53 years, resident of D-638, Mayur Path, Gandhi Nagar, Jaipur.
8. Snehlata Panwar wife of Shri Rajendra Singh Panwar, aged about 54 years, resident of 11/40, Gandhi Nagar, Jaipur.
9. Pratibha Singh wife of Shri Fateh Singh, aged about 47 years, resident of 4/5, Income Tax Colony, Jyoti Nagar, Jaipur.
10. Kailash Chand Meena son of Shri Ramphool Meena, aged about 49 years, resident of B-8, Ashish Vihar, RBI Colony, Jagatpura, Jaipur.

.. Applicants

(By Advocate : Mr. Kuldeep Singh Punia)

Versus

1. Union of India through its Secretary, Department of Personnel and Training, Government of India, North Block, New Delhi.
2. The Principal Secretary, Department of Personnel, Government of Rajasthan, Government Secretariat, Jaipur.
3. Union Public Service Commission through its Secretary, Dholpur House, New Delhi.
4. Bhanwar Lal Kandol son of Late Shri Babu Lal Kandol, aged about 58 years, resident of 1/5, Girnar Colony, Gandhi Path, Vaishali Nagar, Jaipur, Joint Secretary, Higher Education, Jaipur.
5. Chunni Lal Kayal son of Shri Gopi Ram Kayal, aged about 56 years, resident of C/29, Mahesh Nagar, 80 Feet Road, Jaipur. Joint Secretary, Medical Health, Jaipur.
6. Purushottam Biyani son of Shri Banshidhar Biyani, aged about 55 years, resident of B-2/23 Chitrakoot Scheme, Gandhi Path, Vaishali Nagar, Jaipur, Joint Secretary, Industries, Jaipur.
7. Ajay Singh son of Shri Sher Singh Chittora, aged about 56 years, resident of Chittora House, Bani Park, Jaipur. Director, Fisheries Development, Jaipur.
8. Satya Prakash Baswala son of Shri Kherati Lal Baswala, aged about 56 years, resident of D-103, Kewat Marg, Pawan Path, Hanuman Nagar, Jaipur. Joint Secretary, Administrative Reforms Department, Government of Rajasthan, Jaipur.
9. Chhaya Bhatnagar wife of Shri Sharwan Sawhney aged about 57 years, resident of 8, JDA Flats, Shiv Marg, Sethi Colony, Jaipur. Presently working as Secretary State Information Commission, Jaipur.
10. Kamlesh Kumar Singhal son of Shri Ramji Lal Singha, aged about 58 years, Managing Director, FED, Jaipur.

.. Respondents

(By Advocate: -----)

ORDER

PER HON'BLE MR. ANIL KUMAR, ADMINISTRATIVE MEMBER

The present Review Application has been filed for reviewing/recalling the order dated 04.04.2013 passed in OA No. 810/2012 (Bhanwar Lal Kandol & Others vs. Union of India &

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Others) and 80/2013 (Loknath Soni & Others vs. Union of India & Others).

2. This Review Petition has been filed by the applicants as per the directions issued by the Hon'ble High Court in DB Civil Writ Petition No. 7119/2013 decided on 23.05.2013 (Nathu Mal Pahadia vs. Union of India & Others). In Para No. 13 of the judgment, the Hon'ble High Court has held that :-

"13. Accordingly that writ petition would not be maintainable. Writ Petition No. 7119/2013 is, therefore, dismissed with liberty to the petitioners therein to approach the Tribunal by filing review petition under Rule 17 of the Central Administrative Tribunal (Rules) 1987....."

3. In compliance of these direction, the applicants have filed this Review Petition.

4. Heard the learned counsel for the applicants and perused the documents on record filed alongwith the Review Application.

5. This Review Petition has been filed beyond the period of limitation and the applicants have filed a Misc. Application for the condonation of delay. However, we are not convinced with the reasons given by the applicants for filing the Review Application beyond the period of limitation. Moreover, the Full Bench of the Andhra Pradesh High Court in the case of **G.Nara Simha Rao vs. Regional Joint Director of School Education** (W.P. 21738 of 1998) has already held that the Tribunal has no jurisdiction to condone the delay by taking aid and assistance of either sub-

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section (3) of Section 21 of the Administrative Tribunals Act or Section 29(2) of the Limitation Act.

6. Further the Hon'ble Supreme Court in the case of **K. Ajit Babu & Others vs. Union of India & Others**, 1997 SCC (L&S), in Para No. 4 has held that:-

".....The right of review is not a right of appeal where all questions decided are open to challenge. The right of review is possible only on limited grounds, mentioned in Order 47 of the Code of Civil Procedure. Although strictly speaking Order 47 of the Code of Civil Procedure may not be applicable to the tribunals but the principles contained therein surely have to be extended. Otherwise there being no limitation on the power of review it would be an appeal and there would be no certainty of finality of a decision. Besides that, the right of review is available if such an application is filed within the period of limitation. The decision given by the Tribunal, unless reviewed or appealed against, attains finality. If such a power to review is permitted, no decision is final, as the decision would be subject to review at any time at the instance of the party feeling adversely affected by the said decision. A party in whose favour a decision has been given cannot monitor the case for all times to come. Public policy demands that there should be an end to law suits and if the view of the Tribunal is accepted the proceedings in a case will never come to an end. We, therefore, find that a right of review is available to the aggrieved persons on restricted ground mentioned in Order 47 of the Code of Civil Procedure if filed within the period of limitation."

7. Therefore, this Review Application is not maintainable as it is filed beyond the period of limitation. Accordingly, the Misc. Application No. 255/2013 for condonation of delay stands dismissed.

8. Even on merit the present Review Application is not maintainable. By means of this Review Application, the applicants are trying to reopen all issues decided by this Tribunal in OA No.

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810/2012 (Bhanwar Lal Kandol & Others vs. Union of India & Others) and 80/2013 (Loknath Soni & Others vs. Union of India & Others) which is not permissible under the law for review proceedings.

9. The Hon'ble Apex Court in the case of **Smt. Meera Bhanja vs. Nirmal Kumari**, AIR 1995 SC 455, observed that reappreciating facts/law amounts to overstepping the jurisdiction conferred upon the Courts/Tribunals while reviewing its own decision. In the present application also, the applicants are trying to claim reappreciation of the facts and the material placed on record which is decidedly beyond the power of review conferred upon the Tribunal as held by Hon'ble Supreme Court.

10. 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

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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".

11. Therefore, the present Review Application is liable to be dismissed not only on the point of limitation but also on merit. We do not find any patent error of law or facts in the order dated 04.04.2013 passed in OA No. 810/2012 (Bhanwar Lal Kandol & Others vs. Union of India & Others) and 80/2013 (Loknath Soni & 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.

V. Ajay Kumar
(V. Ajay Kumar)
Member (J)

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Member (A)