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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH, JAIPUR.

R.A No.12/99

Date of order: 17/11/99

1. Union of India through the Secretary, Telecom Deptt, New Delhi.
2. The Chief General Manager Telecom, Rajasthan Circle, Jaipur.

...Applicants.

Vs.

Jaswant Singh Cambow, S/o late Shri Kishan Singh Cambow, R/o 94/14,
Mansarovar Colony, Jaipur.

...Respondent.

Mr.U.D.Sharma : Counsel for applicants.

PER HON'BLE MR.S.K.AGARWAL, JUDICIAL MEMBER.

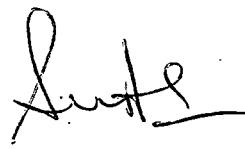
This Review Application has been filed to recall/review the order of this Tribunal dated 23.9.99 passed in O.A No.80/96, Jaswant Singh Cambow Vs. U.O.I & Ors.

2. Vide order dated 23.9.99, this Tribunal allowed the O.A and the respondents were directed to pay the applicant arrears of pay and all allowances of the promotion post with all consequential benefits in pursuance of the order dated 10.11.94, within two months from the date of receipt of a copy of this order.

3. The applicant filed one O.A with a prayer to declare the order dated 9.1.96 as illegal and to direct the respondents to release the promotion of the applicant with all consequential benefits.

4. I perused the averments made in this Review Application and also perused the written submissions filed by the learned counsel for the respondents with this Review Petition.

5. The main contention of the learned counsel for the respondents in this Review Application is that the learned counsel for the respondents was permitted to file written submissions but without giving him proper opportunity to file his written submissions, the order was pronounced. It is further contended by the learned counsel for the respondents that if his written submissions might have been considered the net result of the O.A might have been otherwise.

 6. The learned counsel for the respondents should have filed the written submissions without any delay if he was permitted to file the same. The arguments were heard on 20.9.99, whereas the order was pronounced on 23.9.99, till the delivery of the order the learned counsel for the respondents did not file the written submissions, therefore, without waiting for the same any further, the order was pronounced. The

learned counsel for the respondents was heard at length at the time of hearing the arguments. Therefore, I do not think that proper opportunity of filing the written submissions to the learned counsel for the respondents was denied.

7. I have considered the contentions of the learned counsel for the respondents and also perused the written submissions filed by him.

8. Section 22(3) of the Administrative Tribunal Act, 1985 confers on an Administrative Tribunal discharging the functions under the Act, the same powers as are vested in a Civil Court under the Code of Civil Procedure while trying a suit in respect inter alia of reviewing its decisions. Sec.22(3)(f) is as under:

"Sec.22(3)(f):

A Tribunal shall have, for the purpose of discharging its functions under this Act, the same powers as are vested in a Civil Court under the Code of Civil Procedure, 1908 (5 of 1908), while trying a suit, in respect of the following matter, namely

(f) reviewing its decisions;"

9. A Civil Court's power to review its own decision under the Code of Civil Procedure is contained in Order 47 Rule 1, Order 47 Rule 1 provides as follows:

"Order 47 Rule 1:

Application for review of judgment:

(1) Any person considering himself aggrieved:

(a) by a decree or order from which an appeal is allowed, but from which no appeal has been preferred.

(b) by a decree or order from which no appeal is allowed, or

(c) by a decision on reference from a Court of Small Causes and who, from 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 decree was passed or order made, or on account of some mistake or error apparent on the face of the record, or for any other sufficient reason, desires to obtain a review of the decree passed or order made against him, may apply for a review of judgment to the court which passed the decree or made the order."

9. On the basis of the above proposition of law, it is clear that power of the review available to the Administrative Tribunal is similar to power given to civil court under Order 47 Rule 1 of Civil Procedure Code, therefore, any person who consider himself aggrieved by a decree or order from which an appeal is allowed but from which no appeal has been preferred, can apply for review under Order 47 Rule (1)(a) on the ground that there is an error apparent on the face of the record or from the discovery of new and important matter or evidence which after the exercise

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of due diligence was not within his knowledge or could not be produced by him at the time when the decree or order was passed but it has now come to his knowledge.

10. In the instant case, we have also considered the judgment of the Supreme Court in Dr.H. Mukherjee Vs. U.C.I & Ors, 1994 SCC(L&S) 454 and the judgment of this Tribunal in Rang Lal Meena Vs. U.O.I & Ors, 1995(7) SLR 146. In the order passed by us reference has been made to the latest law laid down in Ranjit Kumar Das Vs. Coal India Limited & Ors, 1999(1) SLR 58, delivered by the Calcutta High Court and in that judgment the High Court has held that recorded warning is not one of the penalties specified in the Conduct Rules. Recorded warning does not come within the purview of either minor penalty or major penalty. The petitioner's case, therefore, could not have been refused to be considered for promotion only on the ground.

11. In view of the above, and the facts and circumstances of this case, I do not find any error apparent on the face of the record to review the impugned order and therefore, there is no basis to review the above order.

12. I, therefore, dismiss this review petition having no merits.


(S.K. Agarwal)
Member (J).

9 agree.

