

Date of Order: 4.6.2002

RA 12/2002 (OA 288/2001)

Dr. Lalit Kishore s/o Shri Chaman Lal r/o B-22, Prabhu Marg, Tilak Nagar, Jaipur.

... Applicant

Versus

Kendriya Vidyalaya Sangathan through its Commissioner, 18, Institution Area, Shaheed Jeet Singh Marg, New Delhi.

... Respondent

CORAM:

HON'BLE MR. JUSTICE O.P. GARG, VICE CHAIRMAN

HON'BLE MR. A.P. NAGRATH, ADM. MEMBER


O R D E R

PER HON'BLE MR. JUSTICE O.P. GARG, VICE CHAIRMAN

This RA has been filed with a prayer to recall and review the order dated 19.4.2002, passed in OA 288/2001, by which the OA was dismissed.

2. Prayer for review has been based on the fact that his counsel could not appear on his behalf because he had to attend to his sister who had met with an accident and was hospitalised. In that situation, his counsel had requested his colleague Shri Hemant Gupta to seek adjournment in the matter. By the time Shri Hemant Gupta reached the Tribunal, the matter had already been decided and order passed. To this effect, the applicant has enclosed affidavit of his counsel Shri Rajendra Vaish and that of Shri Hemant Gupta. The applicant has also mentioned that he had filed another OA 179/2001 in respect of counting of his past services for pension, which is still pending disposal. He had made this also another ground for reviewing the order dated 19.4.2002. He has made prayer for seeking fresh hearing on merits.

3. Powers of this Tribunal in the matter of review of its order are akin to powers of the Civil Court and are governed by Order 47 Rule 1 of the Code of Civil Procedure. This rule provide that review can be done if there is an error apparent on the face of record or if there is such material fact or the point of law which could not be



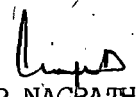
brought to the notice of the Tribunal/Court despite due diligence. What the applicant is seeking is rehearing of the case. There is no provision under the rules relating to review that a case can be reheard or the facts reappreciated by the Tribunal.

4. It has been held by Hon'ble the Supreme Court in the case of Maera Bhanja v. Nirmal Kumari, AIR 1995 SC 455, that reappreciating facts/law amounts to overstepping the jurisdiction conferred upon the Courts/Tribunal while reviewing its own decision.

5. It has also been observed by Hon'ble the Supreme Court in Ajit Kumar Rath v. State of Orissa & Ors., JT 1999 (8) SC 578, that a review cannot be claimed or asked 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 face 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 means a reason sufficiently analogous to those specified in the rule.

6. In addition to this legal position, we would also like to observe that the applicant has shown lot of indifference in pursuing the OA. He has been rather lackadaisical in his own case. On earlier occasion, when this OA was listed on 28.1.2002, the same was dismissed in default as none appeared on behalf of the applicant. The same was restored by order dated 13.3.2002 and was listed for orders on 19.4.2002. On 19.4.2002 also, we had observed that none appeared for the applicant. Applicant's own conduct and the legal position are both against him. No ground has been made out for recalling the order dated 19.4.2002.

7. The RA is, therefore, dismissed in limine. By circulation.


(A.P. NAGRATH)
MEMBER (A)


(JUSTICE O.P. GARG)
VICE CHAIRMAN