

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
JAIPUR BENCH, JAIPUR.

Date of decision: 20th April, 2004

REVIEW APPLICATION NO.13/2004

(OA No.542/2002)

Dinesh Kapoor s/o Shri A.L.Kapoor, aged about 50 years r/o Railway Quarter No. 1658/B, Ram Ganj, Ajmer. Presently working on the post of Senior Clerk under I.O.W. North, Ajmer.

.. Applicant

Versus

1. Union of India through General Manager, Western Railway, Churchgate, Mumbai.
2. The Divisional Railway Manager, Ajmer Division, Ajmer.

.. Respondents

Mr.P.P.Mathur, counsel for the applicant

O R D E R

The present Review Application has been filed by the original applicant against the judgment dated 15.3.2004 (Ann.RA/1) whereby the OA was dismissed. The OA was filed by the applicant as he was declined arrears of salary from back date on account of promotion as Senior Clerk on notional basis.

2. The grounds taken by the applicant in the Review Application are that the Tribunal has failed to consider that the applicant was not relieved by the respondents to join the post of Senior Clerk, as such he was entitled to the benefit of arrears on account of notional promotion and the judgment is wrong on that

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account. The applicant has also taken similar arguments that this Tribunal has failed to consider various aspects of the matter as mentioned in the Review Application. According to us, this cannot form ground for reviewing the judgment.

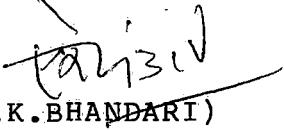
3. It is well settled that power of review can be exercised on the application of a person on the discovery of new and important matter or evidence which, after exercise of due diligence, was not within his knowledge and could not be produced by him when the order was made. The power can also be exercised on account of some mistake or error apparent on the face of record or for any other sufficient reason. It is not a case set-up by the applicant in this Review Application. As can be seen from the pleadings, review has been claimed or asked for merely for a fresh hearing or correction of a view taken by this Bench, which cannot be a ground for reviewing the judgment. Even if the view taken by this Tribunal may be wrong, that will not form ground for reviewing the judgment and the remedy lies elsewhere. At this stage, it will be useful to refer to the decision of Apex Court in the case of Ajit Kumar Rath vs. State of Orissa, AIR 2000 SC 85, whereby their Lordship has observed that :-

"The power of review available to the Tribunal is the same as has been given to a court under Section 114 read with Order 47 CPC. The power is not absolute

(Signature)

and is hedged in by the restrictions indicated in Order 47. 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 or error apparent on the face of the record or for any other sufficient reasons. 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 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 sufficient analogous to those specified in the Rule. Any other attempt, except an attempt to correct an apparent error or an attempt not based on any ground set out in Order 47 would amount to an abuse of the liberty given to the Tribunal under the Act to review its judgment."

4. In view of what has been stated above,
the Review Application is dismissed.


(A.K.BHANDARI)

Member (A)


(M.L.CHAUHAN)

Member (J)