

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL JAIPUR BENCH

J A I P U R .

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R.A.No.65/1995
in
OA No.147/95

Date of order: 29-1-1996

Union of India and others : Respondents-petitioners

Vs.

Shri Om Prakash Sharma & Ors: Applicants-non-petitioners

O R D E R

RATTAN PRAKASH, MEMBER (JUDICIAL)

This review application has been filed by the respondents Union of India under Section 22(3) of the Administrative Tribunal's Act, 1985 read with Rule 17 and 24 of the Central Administrative Tribunal (Procedure Rules), 1987 for review of the order passed by this bench on 13.7.1995 in OA No.147/95. This application has also been accompanied by (D) Misc. Application No. 517/95 for condonation of delay in filing this review application.

2. Both, the review application as well as Misc. application are being disposed of by this order.

3. Brief Facts leading to this application are that the non-petitioners Shri Om Prakash Sharma and others have filed an application under Section 19 of the Administrative Tribunal's Act, 1985 to seek a direction against the respondents (review applicants) to quash any order, if passed by them for recovery from the salary of the applicants (respondents in the review application) for the month of March, 1995

and onwards with a further direction not to reduce their pay and to allow them the pay and allowances as usual after having been stepped up w.e.f. March, 1986. Vide order dated 13.7.1995 the OA was allowed and it was ordered that the respondents' action in making recovery from the salary of the applicants w.e.f. March, 1995 cannot be sustained in the eye of law and the applicants shall be paid the salary as they were getting earlier.

4. Aggrieved, the review applicants have now preferred this review petition mainly on the ground that there has been incorrect appreciation of the pleadings made on behalf of the respondents in so much so neither there was any order for stepping up the pay of the applicants, nor there has to be any orders for making the aforesaid recovery from the salary of the applicants. It has therefore been contended that there being an error apparent on the face of the record, the order under review dated 13.7.1995 should be reviewed and the OA filed by the applicants (non-petitioner in this petition) be dismissed. On the point of delay in filing this review application, the review petitioners have filed an application supported by an affidavit to the effect that since the order of the Tribunal dated 13.7.1995 was received by the respondents review petitioners at Local Office at Jaipur and then it was communicated to the Department of Posts, Ministry of Communications whereupon they took a decision to file a review application, hence, there has been a delay in filing this review application. Although

no specific dates have been given as to when the order of the Tribunal dated 13.7.1995 was received by the review petitioners, still as the review application has been filed on 9.11.1995, the delay, although unexplained, in filing this review petition by the review petitioners is condoned in the interest of justice and the MA 517/95 for condonation of delay in filing this review petition is accepted.


5. Coming now to the merits of this review application, it is the settled position in law that the power to review its own order by the Tribunal under the Administrative Tribunals Act, 1985 has been conferred under **Act read with Rule 17 of the** Section 22(3) of the Administrative Tribunal (Procedure) Rules, 1987 and is further circumscribed by the limits laid down under Section 114 of the Code of Civil Procedure read with Order XIVII, Rule 1 of the C.P.C. It is also settled law that a review of its own order by the Tribunal/Court is permissible only on:

- (i) the discovery of new and important matter or evidence which after the exercise of due diligence of the petitioner was not within his knowledge or could not be produced by him at the time when the order in question was made;
- (ii) on account of some mistake or error apparent on the face of the record; and
- (iii) or for any other sufficient reason."

6. Moreover Hon'ble the Supreme Court in a recent judgment of Smt. Meera Bhanja vs. Smt. Nirmala Kumari Choudhary, 1994(1)SCALE 935 had an occasion to examine

the scope of Order XLVII Rule 1 of the CPC pertaining to review and has held that the Tribunal cannot sit in appeal over its own decisions.

7. In the instant case as well, what the review petitioners are emphasizing is that this bench should re-appreciate the whole record of the case knowingly that the pleadings as they have raised in their reply; have been duly considered by the bench while deciding it vide its order dated 13.7.1995. In case an effort is made to re-appreciate the evidence once again, it would virtually amount to over-stepping the jurisdiction conferred upon the Tribunal for review of its own order which is not permitted under the Law as laid down by Hon'ble the Supreme Court in the aforesaid Smt. Meera Bhanja's case. In any view of the matter, the ground taken by the review petitioners in the review petition cannot be termed as an error apparent on the face of record. The review petitioners have failed to make out any other ground as contained under Order XLVII Rule 1 of the CPC. The review petition therefore deserves rejection which is hereby rejected. By circulation.


(RATTAN PRAKASH)
MEMBER (J)


(O.P. SHARMA)
MEMBER (A)