

CENTRAL ADMINISTRATIVE TRIBUNAL,
JAIPUR BENCH, JAIPUR.

REVIEW APPLICATION NO. 291/00004/2015
IN
ORIGINAL APPLICATION NO. 480/2013

DATE OF ORDER: 18.5.2015

Praveen Benson W/o of Shri Vinod Benson, aged about 61 years,
R/o 66 Govindpuri, Gyatri Nagar, Ajmer Road, Sodala, Jaipur,
earlier working as Matron/Nursing Superintendent, National
Institute of Ayurveda, Madhav Vilas Palace, Amer Road, Jaipur.

... Applicant

(By : Self)

VERSUS

1. The Union of India through Secretary, Department of Ayush, Ministry of Health and Family Welfare, B-Block, CPO Complex, New Delhi.
2. The Secretary, Ministry of Finance, Department of Expenditure, Government of India, New Delhi.
3. The Director, National Institute of Ayurveda, Madhav Vilas Palace, Amer Road, Jaipur.

... Respondents

(By :)

ORDER
BY CIRCULATION

The present Review Application has been filed by the applicant for reviewing/recalling the order dated 01.04.2015 passed in OA No. 480/2013 (Praveen Benson vs. Union of India & Others).

2. By means of this Review Application, the applicant is trying to reopen all issues decided by this Bench of the Tribunal in OA No. 480/2013 (Praveen Benson vs. Union of India & Others) which is not permissible under the law for review proceedings.

Anil Kumar

3. 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 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".

4. In our opinion, the grounds urged by the applicant do not warrant a review of the order dated 01.04.2015 passed in O.A. No. 480/2013. The grounds urged do not meet the necessary

Anil Kumar

ingredients as set out under Order 47 Rule 1 of the Civil Procedure Code 1908 which is in pari-materia with Section 22 (3) (f) of the Administrative Tribunals Act, 1985.

5. The Hon'ble Supreme Court in the case of **State of West Bengal and Others Vs. Kamal Sen Gupta and Another- 2008(3) AISLJ 231** by referring to Section 22 of the Administrative Tribunals Act, 1985 at Para 9 and 10 of the judgment held as under:-

"9. A reading of the above reproduced section makes it clear that even though a Tribunal is not bound by the procedure laid down in the CPC, it can exercise the powers of a Civil Court in relation to matters enumerated in clauses (a) to (i) of Sub-Section (3) including the power of reviewing its decision.

10. The power of a Civil Court to review its judgment/ decision is traceable in Section 114 CPC. The grounds on which review can be sought are enumerated in Order 47 Rule 1 CPC, which reads as under:-

Order 47 Rule 1

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 no appeal has been preferred.
 - (b) by a decree or order from which no appeal is allowed, or
 - (c) by a decision on a 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 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 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."

Anil Kumar

6. By referring to Section 22 of the Administrative Tribunals Act, 1985, Section 114 read with Order 47 Rule 1 of CPC and after referring to the various judgments relating to the power of review of a Civil Court, at para 28 of the said judgment, the Hon'ble Supreme Court has laid down the following principles:-

"28. The principles which can be culled out from above noted judgments are:-

- (i) The power of Tribunal to review its order/decision under Section 22(3)(f) of the Act is akin/analogous to the power of a Civil Court under Section 114 read with Order 47 Rule 1 of CPC.
- (ii) The Tribunal can review its decision on either of the grounds enumerated in Order 47 Rule 1 and not otherwise.
- (iii) The expression "any other sufficient reason" appearing in Order 47 Rule 1 has to be interpreted in the light of other specified grounds.
- (iv) An error which is not self-evident and which can be discovered by a long process of reasoning, cannot be treated as an error apparent on the face of record justifying exercise of power under Section 22 (3) (f).
- (v) An erroneous order/decision cannot be corrected in the guise of exercise of power of review.
- (vi) A decision/order cannot be reviewed under Section 22(3)(f) on the basis of subsequent decision/judgment of a coordinate or larger Bench of the Tribunal or of a superior Court.
- (vii) While considering an application for review, the Tribunal must confine its adjudication with reference to material which was available at the time of initial decision. The happening of some subsequent event or development cannot be taken note of the declaring the initial order/decision as vitiated by an error apparent.
- (viii) Mere discovery of new or important matter or evidence is not sufficient ground for review. The party seeking review has also to show that such matter or evidence was not within its knowledge and even after the exercise of due diligence, the same could not be produced before the Court/Tribunal earlier."

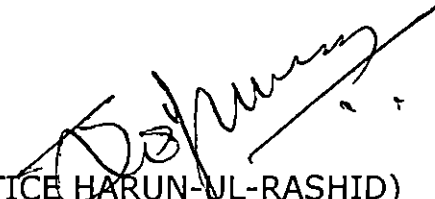
7. By applying the above principles laid down by the Hon'ble Supreme Court with regard to the power of the Tribunal to

Anil Kumar

review its order/decision under Section 22(3) of the Administrative Tribunals Act, 1985, we do not find any patent error of law or facts in the order dated 01.04.2015 passed in OA No. 480/2013 (Praveen Benson vs. Union of India & Ors.). Therefore, the present Review Application is liable to be dismissed.

8. 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 stands dismissed accordingly.


(ANIL KUMAR)
ADMINISTRATIVE MEMBER


(JUSTICE HARUN-UL-RASHID)
JUDICIAL MEMBER

Kumawat