

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
JAIPUR BENCH

Jaipur, this the ²⁶ ~~26~~ September, 2016

**REVIEW APPLICATION No.291/00009/2016
(ORIGINAL APPLICATION No.291/00330/2014)**

Rakesh Yadav S/o Shyam Narayan Yadav a/a 25 years R/o Subhash Nagar, Flat No. 420, Kamla Nehru Nagar, Hasanpura (c), Near N.B.C., Jaipur.

.. Applicant-respondent

(By Advocate: Mr. S. Shrivastava)

Versus

1. Union of India through General Manager,
N.W.R., H.Q. Office, Jagatpura,
Jaipur.
2. General Manager (P),
NWR, H.Q. Office, Jawahar Circle,
Jagatpura, Jaipur.
3. Controller of Store (C.O.S./NWR),
NWR, H.Q. Office, Jaipur.
4. Chief Personnel Officer,
West Central Railway, HQ Office,
Indra Market, Jabalpur, M.P.

.. Respondents-applicants

(By Advocate:.....)

ORDER (By Circulation)

The present Review Application has been filed by the applicant for reviewing the order dated 04.08.2016, passed in OA

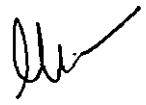
No.291/00330/2014 [Rakesh Kumar Yadav vs. Union of India & Ors.]

and praying for the following relief :

"It is therefore most respectfully prayed that this Hon'ble Tribunal may graciously be pleased to recall the order/judgement dated 04.08.2016 passed in OA No.291/00330/2014 and may further be pleased to review the aforesaid judgement to allow the OA in question in favour of the applicant by giving opportunity to hear the matter on merit again."

2. The applicant has prayed for a review of the order in question on certain grounds. In the first place, it has been averred that the applicant never refused to go to Jabalpur with Shri Ramesh Chandra as he was never asked to go with Shri Ramesh Chandra nor was any order of transfer in respect of the applicant issued. It has been averred that the respondents, during the course of arguments in the OA, have not produced any documentary evidence in support of their averment that the applicant refused to go to Jabalpur except only the statement of Shri Ramesh Chandra that the applicant had refused so.

Inter-alia, it has also been submitted in the RA, that this Tribunal has dismissed the OA merely on the ground that the applicant did not controvert the letter dated 17.4.2014 (Ann.R/1 to the reply filed by respondent No.4) by filing rejoinder and that the contention of the applicant that he did not refuse to go to Jabalpur has no force, whereas the letter dated 17.4.2014 itself makes it clear that it is only the statement of Shri Ramesh Chandra that the applicant refused verbally, which has no legal sanctity because it has no basis being not supported by any documentary evidence.



Further, it has also been submitted that during the course of arguments in the OA, the applicant produced the letter of another Bungalow Khalasi to show that in case a Bungalow Khalasi is required to go alongwith an officer on his transfer, separate orders are required to be issued. This Tribunal though took note of it but lost sight of the same while giving its findings in the judgement. On these & other related grounds, the Review Applicant has prayed for the RA to be allowed.

3. Considered the averments made by the review applicant. It appears from a detailed perusal of the RA and the issues raised therein, that the applicant is reiterating the points made in the OA and during the arguments, but no new facts/arguments have been brought up in the RA. As these have already been considered in the judgment dated 04/08/2016, reviewing the case would tantamount to re-opening the case on merit, which is not permissible under the law due to the limited scope of Review applications.

4. The Hon'ble Apex Court in the case of Ajit Kumar Rath vs. State of Orissa, reported in AIR 2000 SC 85 has held as under:-

"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 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."

5. The applicant has not made out any case within the four corners of the aforesaid legal position. As already stated, the applicant's claim through this Review Application is that this Tribunal should again re-appreciate the facts and material placed on record and render a fresh judgment on merits after fresh hearing, which is beyond the purview of this Tribunal while exercising the powers of review conferred upon it under the law.

In view of the above analysis there appears no valid ground to review the order in question and accordingly the Review Application, lacking in merit, is dismissed by circulation.



(MEENAKSHI HOOJA)
Member (A)