IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH, JAIPUR

Date of order: 13.04.2000

RA No.7/2000 (OA No.614/94)

Ramesh Chand Sharma S/o late Shri Daya Ram Sharma, now serving with Garrision Engineer, Kota.

Applicant

Versus

1. The Union of India through its Secretary to the Govt. of India, Ministry of Defence, New Delhi.
2. The Engineer-in-Chief, Kashmir House, Army Headquarters, DHQ PO, New Delhi.
3. The Chief Engineer, Southern Command, Pune.
4. The Chief Engineer, Jaipur Zone, Jaipur.

.. Respondents

ORDER

Per Hon'ble Mr. N.P.Nawani, Administrative Member

This Review Application has been filed to recall/review the order of this Tribunal dated 22.2.2000 passed in OA No.614/94, Ramesh Chand Sharma v. Union of India and ors.

2. Vide order dated 22.2.2000, this Tribunal had dismissed the OA filed by the applicant with parties to bear their own costs.

3. We have perused the averments made in this Review Application and also perused the judgment delivered by this Tribunal dated 22.2.2000 in OA No.614/94.

4. The main contention of the learned counsel for the applicant in this Review Application has been that the Tribunal has not appreciated the subject matter in controversy and the facts therein in the correct prospective. The applicant in this

Review Application seeks to reopen the case on merits, which is not permissible in review. The case law now being cited in the Review Application should have been cited when the OA was being finally heard. In any case, the case law now being cited is distinguishable, the subject matter being seniority when a deputationist is absorbed whereas the judgment of the Apex Court which was relied in the order dated 22.2.2000 is directly applicable, the provisions of the Central Civil Services (Redeployment of Surplus Staff) Rule 1990 being applicable in the case of the applicant also.

5. Section 22(3)of the Administrative Tribunals Act, 1985 confers on an Administrative Tribunal discharging the functions under the Act, the same powers as are vested in a Civil Court under the Code of Civil Procedure while trying a suit in respect inter alia of reviewing its decisions. Sec. 22(3)(f) is as under:

"Sec.22(3)(f):

A Tribunal shall have, for the purpose of discharging its functions under this Act, the same powers as are vested in a Civil Court under the Code of Civil Procedure, 1908 (5 of 1908), while trying a suit, in respect of the following matter, namely

(f) reviewing its decisions;"

6. A Civil Court's power to review its own decision under the Code of Civil Procedure is contained in Order 47 Rule 1, Order 47 Rule 1, provides as follows:

"Order 47 Rule 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 from which no appeal has been preferred.
(b) by a decree or order from which no appeal is allowed, or
(c) by a decision on reference from a Court of Small Causes and who, from the discoversy 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 order 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 the 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."

7. On the basis of the above proposition of law, it is clear that power of the review available to the Administrative Tribunal is similar to power given to Civil Court under Order 47 Rule 1 of Civil Procedure Code, therefore, any person who consider himself aggrieved by a decree or order from which an appeal is allowed but from which no appeal has been preferred, can apply for review under Order 47 Rule (1)(a) on the ground that there is an error apparent on the face of the record or 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 or order was passed but it has now come to his knowledge.

8. What the petitioner is claiming through this review petition is that this Tribunal should reappreciate the facts

and material on record. This is beyond the purview of this Tribunal while exercising the powers of the review conferred upon it under the law. It has been held by Hon'ble Supreme Court in the case of Smt.Meera 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 decisions. In the present petition also the petitioner is trying to claim reappreciation of the facts and material on record which is decidedly beyond the power of review conferred upon the Tribunal and as held by Hon'ble Supreme Court.

9. It has been observed by the Hon'ble Supreme Court in a recent judgment Ajit Kumar Rath v. State of Orissa and ors., JT 1999(8) SC 578 that 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 sufficiently analogucus to those specified in the rule.

10. In the instant case, on the perusal of the order delivered and also the record as a whole, we are of the considered opinion that there is no error apparent on the face of the record and no new important fact or evidence has come into the notice of this Tribunal on the basis of which the order passed by the Tribunal can be reviewed.

11. In view of the above, and the facts and circumstances

of this case, we do not find any error apparent on the face of the record to review the impugned order and, therefore, there is no basis to review the above order.

12. We, therefore, dismiss this review application having no merits.

(M.P.NAWANI)
Adm. Member

(S.K.AGARWAL)
Judl.Member