

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

JAIPUR BENCH : JAIPUR

Date of order : 04.10.2001

Review Application No. 32/2001

in

Original Application No. 44/1995

Gur Bachan Singh Bhalla son of Shri Kharak Singh aged about 60 years resident of A/34, Bhan Nagar, Queens Road, Jaipur, Ticket No. 74390 CPO Chargeman Carriage and Wagon Work Shop, Ajmer [Now retired].

... Applicant.

versus

1. Union of India through General Manager, Western Railway, Church Gate, Bombay.
2. The Deputy Chief Mechanical Engineer, Carriage and Wagon Workshop, Western Railway, Ajmer.

... Respondents.

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

: O R D E R :

(Per Hon'ble Mr. Justice B.S. Raikote)

This Review Application is filed contending that there is an error apparent on the face of the record in the order dated 10.08.2001 passed in O.A. No. 44/95. The applicant contended that he is entitled for all the consequential benefits flowing from the order dated 26.08.93 passed in TA No. 01/93, and while deciding the case, this Tribunal considered that passing of trade test is necessary for promotion to the post of Senior Trade Instructor with the pay scale at Rs. 425-700. He submitted that the post of Senior Trade Instructor was subsequently equated to Chargeman (Progress), and he was promoted vide Annexure A/3 (filed in the OA) as Chargeman (Progress) and he should not have been reverted. His further case was that, he was entitled to same benefit that was given to one Shri Nihal Mohanani, in view of the separate order passed in TA No. 02/93 filed by him.

2. We have already held in the order under review that the applicant's passing trade test was necessary for promotion to the post of Senior Trade Instructor. We have also held that the applicant is not entitled to all the consequential benefits as was granted in TA No. 02/93 filed by Shri Nihal Mohanani on the ground that Shri Nihal Mohanani had passed the required trade test, and the applicant did not pass the trade test for promotion to the post of Senior Trade Instructor/Chargeman (Progress). From the order itself, it appears that earlier the applicant was promoted as Chargeman (Progress) on local arrangement and ad hoc basis, and he was sought to be reverted. We did not find fault with the order of reversion from the post of Chargeman (Progress) to the post of Junior Trade Instructor, since it was only an ad hoc promotion on local arrangement. Taking into account this important features of the case, and also the fact that the application itself was barred by time, we have dismissed the O.A. filed by the applicant. We have also taken note in the order under review that in TA No. 01/93, the applicant had filed Contempt Petition complaining disobedience of the order, that was also dismissed earlier holding that neither the direction issued in TA No. 01/93 nor in TA No. 02/93 have been disobeyed. By filing the present Review Application, the applicant has raised the same issue, which are not tenable. Hon'ble the Supreme Court in AIR 2000 SC 85 [Ajit Kumar Rath vs. State of Orissa and Others], has clearly laid down a law that a review cannot be claimed or asked for merely for a fresh hearing or arguments or correction of an erroneous view taken earlier. If the judgement is erroneous, an appropriate forum would be there, but not by filing a review application. We think it appropriate to extract the relevant portion of the judgement, as under:-

"29. In Review proceedings, the Tribunal deviated from the

principles laid down above which, we must say, is wholly unjustified and exhibits a tendency to re-write a judgement by which the controversy had been finally decided. This, we are constrained to say, is not the scope of Review under S. 22(3)(f) of the Act which proves as under:

"Section 22.

(1) and (2)

(3) A Tribunal shall have, for the purposes 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 matters, namely-

(a) to (e)

.....

(f) reviewing its decisions;

(g) to (i)

.....

30. The provisions extracted above indicate that the power of review available to the Tribunal is the same as has been given to a Court under S.114 read with O. 47, C.P.C. 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 reason. A review cannot be claimed or asked for merely for a fresh hearing or arguments or correction of any 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 analogous to those specified in the rule.

31. Any other attempt, except an attempt to correct a 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 judgement."

3. In view of the above law declared by Hon'ble the Supreme Court the applicant cannot re-agitate the matter already decided by the Tribunal vide order dated 10.08.2001 in OA No. 44/95. Accordingly, we do not find any merit in this Review Application. Consequently, the Review Petition is dismissed by circulation.

Gopal Singh
(GOPAL SINGH)

Adm. Member

M
(JUSTICE B.S. RAIKO
Vice Chairman