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CENTRAL ADMINISTRATIVE TRIBUNAL
JABALPUR BENCH

REVIEW APPLICATION NO.36/06 IN O.A.NO.791/2005

DATED THIS THE TWENTY SEVENTH DAY OF DECEMBER, 2006

HON'BLE Dr.G.C.SRIVASTAVA, VICE CHAIRMAN

HON'BLE SHRI G.SHANTHAPPA, MEMBER (J)

Union of India and Others

... Applicants

vs

Narendra Kumar Yadav

... Respondent

ORDER by circulation.
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HON'BLE SHRI G.SHANTHAPPA, MEMBER (J):

1. The above application has been filed by the respondents in O.A.NO.791/2005. The relief in the RA is as follows:

"To allow this application and modify the order dated 23.03.2006 in the interest of justice and equity"

2. The applicants have stated in para-4 of the R.A. that the applicant's case has already been considered in three occasions in way back between December, 2002 to September 2003, a copy of the said order is also produced along with RA as Annexure-A1. Since the applicants/respondents already considered this case on three consecutive occasions and as per policy, the final decision is already communicated to the applicant, so there is no question of considering the applicants' case afresh.

3. The present applicants had filed M.A.NO.880/06 for modification of the order. The said MA was rejected on the ground that there is no provision of modification of the order. The applicants have produced the order sheet of the

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rejection of the said MA (Annexure-A2).

4. The applicants have filed MA No.1169/06 for condonation of delay in filing the RA. Reasons assigned in the MA for condonation of delay are, the applicants had filed MA for modification of the order hence, there was a delay in filing the R.A. The reasons mentioned in the MA for condonation of delay are considered and accepted and accordingly delay in filing the RA has been condoned.

5. While deciding the OA 791/2005 we have considered the averments made in the reply statement and also the Annexures along with the reply statement. The applicants in the RA were aware of Annexure-A1 but they did not produce any document at the time of hearing the OA, the Tribunal has disposed off the OA.No.791/05 based on the statement made by the respondents and the documents produced by them. Neither the present applicants produced the order dated 23.02.2006 (Annexure-A1 to RA) nor bring it to the notice of the Tribunal. The applicants in the RA had also not produced the documents to show that the said order was communicated to the respondent (in RA). The document which was not produced in the original proceedings cannot be considered later only to review the order in O.A.No.791/2005. At the time of hearing of the OA neither the applicant nor the respondents produced the said order. As per the Original Application, the applicant has not referred the order dated 23.02.2006 (Annexure-A1 to RA). Hence we have to presume that the said order was not communicated to the applicant. In the reply statement the respondents have also not stated anything about the order dated 23.02.2006. Based on the records produced by the applicant and the respondents in the OA, the Tribunal has disposed of the OA 791/2005.

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6. As per the judgments of Hon'ble Apex Court, the scope of review is very limited. Review is permissible within the ambit or Order XLVII Rule 1 of CPC. The review applicant has failed to establish error apparent on the face of the record. The Hon'ble Supreme Court in the case of Ajit Kr.Rath Vs. State of Orissa (1999 (9) SCC 596) has held that-

"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 rewrite a judgment by which the controversy had been finally decided. Thus, we are constrained to say, is not the scope of review under Section 22 (3)(f) of the Administrative Tribunal Act, 1985, which provides as under:

22.(1)-(2) xxx xxx xxx

(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)-(e) xxx xxx xxx

(f) reviewing its decisions;

(g) - (i) xxx xxx xxx

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 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 dilligence was not within his knowledge or could not be produced by him at the time when the order was made. The power can


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31. Any other attempt, except an attempt to correct an 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 judgment".

8. We have carefully perused the pleadings in the R.A and gone through the impugned order and applied the decisions referred above. There is no error apparent on the face of the record, neither arithmetical mistakes nor clerical error in the impugned order."

(G SHANTHAPPA)
MEMBER (J)


(Dr. G.C. SRIVASTAVA)
VICE CHAIRMAN

पृष्ठकन सं ओ/व्या..... जयलपुर, दि.....

परिसरि सि अयो डिता- -

(1) सजिर, वजा ल... को काउंसल

(2) ... को काउंसल

(3) ... को काउंसल

(4) ... को काउंसल

सचना एवं आवश्यक कारवाही निम्न

उप रजिस्ट्रार

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