

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
JAIPUR BENCH,

JAIPUR, this the 26th day of October, 2005

Review Application No.19/2005
(~~Transfer~~ Application No.06/2001)

K.R.Mathur
s/o Shri J.K.Mathur,
r/o H.No.2514 Khajana Walon Ka Rasta,
Jaipur.
Retired from the post of
Post Graduate Teacher
Mathematics from
Kendriya vidyalaya No.1,
Bajaj Nagar, Jaipur.

.. Applicant

(By Advocate: Shri Krishna Avtar Gupta)

Versus

1. Kendriya Vidyalaya Sangathan through
its Commissioner,
18, Institutional Area,
Shaheed Jeet Singh Marg,
New Delhi.
2. Assistant Commissioner,
Kendriya Vidyalaya SAngathan,
Regional Office,
Bajaj Nagar,
Jaipur.
3. Principal,
Kendriya Vidyalaya No.1
Bajaj Nagar,
Jaipur.

.. Respondents

69

O R D E R

By Circulation

By way of this Review Application, the applicant is praying for reviewing the order dated 9th August, 2005 passed in T.A. No. 06/2001, K.R.Mathur vs. Kendriya Vidyalaya Sangathan and ors.

2. In the Transferred Application, the applicant has asked for the following benefits:-

- (a) to fix petitioner's pay at the stage of Rs. 2900/- as on 1.1.1986 and carry out necessary pay fixation accordingly.
- (b) To provide benefit of FR 22-C in terms of clarification dated 26.11.1990 on promotion to the post of Post Graduate Teacher w.e.f. 26.3.1991,
- (c) To count petitioner's service w.e.f. 1.4.1995 to 30.6.1996 and thereby recalculate the pension, gratuity and other ancillary benefits.
- (d) To make payment of 4 days leave encashment which has been illegally withheld and
- (e) To carry out pay fixation under the revised pay scales given effect from 1.1.1996 on the recommendations made by the Vth Pay Commission and to revised the pension accordingly."

3. After considering the contentions raised by the parties and perusing the material placed on record, this Tribunal came to the conclusion that the only relief which now survives is regarding grant of selection grade on the post of Trained Graduate Teacher (TGT) w.e.f. 1.1.1986 and fixation of pay of the applicant as on date and also the benefit of FR 22(c) when applicant was promoted on the post of Post Graduate Teacher w.e.f. 26.3.1991. Regarding other relief viz. counting of applicant's service w.e.f. 1.4.1995 to 30.6.1996 and also payment of four days

11/2

leave encashment, this Tribunal held that the service of the applicant for the aforesaid period has been taken into consideration and necessary benefits pursuant to such counting of service have already been given to the applicant. Thus, such claim does not survive. Similarly, the applicant was also not held entitled for payment of four days leave encashment. So far as grant of selection grade on the post of TGT w.e.f. 1.1.1986 is concerned, this Tribunal held that the selection grade was wrongly granted to the applicant in excess of 20% of posts in senior scale of TGT vide impugned order dated 18.10.1994 which was correctly modified vide another order dated 23/24.9.1999 w.e.f. 1.1.1987. Regarding grant of benefit of FR 22(c) to the applicant when he was promoted to the post of PGT w.e.f. 26.6.1991, this Tribunal remitted the case back to the authorities to re-examine the matter again in consultation with the nodal ministry i.e. Ministry of Human Resources Development as to whether the applicant who was holding the post of TGT selection grade is entitled to the benefit of FR 22(c) on his promotion to the post of PGT w.e.f. 26.3.1991 and if not appropriate authority will pass a reasoned order. It was further observed that in case it is held that the applicant is entitled to the benefit under FR 22(c) on his promotion to the post of PGT w.e.f. 26.3.1991, his pay may accordingly be fixed in the revised pay scale and

necessary payment of arrears of such revised pay as well as other retiral benefits may be paid to the applicant within two months from the date of passing of the order.

4. Now, by way of this Review Application, the applicant has again re-agitated the matter that he is entitled to the relief as if this Tribunal is re-hearing the matter on merits, which is not permissible under law. Under such circumstances, in case the applicant was aggrieved, the only remedy available to the applicant was to challenge the order of this Tribunal before the higher forum. The scope of review is very limited. The Apex Court in Ajit Kumar Rath vs. State of Orissa, 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. Admittedly, the applicant has not made out any case within the four corners of the aforesaid legal

position. As already stated above, 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 judgment on merits. This is beyond the preview of this Tribunal while exercising the powers of review conferred upon it under the law. It has been held by Hon'ble Apex Court in the case of Smt. Meera Bhanja vs. Nirmal Kumari, AIR 1995 SC 455 that reappreciating facts/law amounts to overstepping the jurisdiction conferred upon the Courts/Tribunal while reviewing its own decision. In the present application also the applicant is trying to claim reappreciation of the facts and the material placed on record which is decidedly beyond the power of review conferred upon the Tribunal and as held by Hon'ble Supreme Court.

5. In view of what has been stated above, we do not find any error apparent on the face of record to review the order and accordingly the Review Application is dismissed having no merits.



(M.K.MISRA)

Member (A)



(M.L. CHAUHAN)

Member (J)