

CENTRAL ADMINISTRATIVE TRIBUNAL,  
JAIPUR BENCH, JAIPUR

Review Application No. 22/2011  
in  
Original Application No. 354/2008

Date of Order: 29.08.2011

Mohd. Hussain S/o Rustamji, aged about 58 years, Sand Blaster T. No. 49487/30, Carriage and Wagon Workshop, North Western Railway, Ajmer, R/o Sahadia Madarsa, Ward No. 4, Behind Imambara, Gandhi Nagar, Madanganj, Kishangarh, Ajmer.

... Applicant

(By Advocate: Shri N.K. Gautam)

Versus

1. Union of India through General Manager, North Western Railway, Jaipur.
2. Chief Works Manager, Loco Workshop, North Western Railway, Ajmer.
3. Dy. Chief Mechanical Engineer, Carriage Workshop, North Western Railway, Ajmer.

... Respondents

(By Advocate: .....)

ORDER (By Circulation)

The present Review Application has been filed by the applicant in the OA for reviewing/recalling the order dated 25<sup>th</sup> July, 2011 passed in OA No. 354/2008 – Mohd. Hussain vs. Union of India and Ors.

2. We have perused the averments made in the Review Application and we are of the view that there is no merit in this Review Application on the following reasons.

3. From the perusal of the order dated 25<sup>th</sup> July, 2011 passed in O.A. No. 354/2008, it is seen that the O.A. was itself dismissed as



barred by limitation, though in the previous OA No. 435/2004 vide order dated 14.08.2008, an opportunity was given to the applicant to challenge the order dated 19.10.2004 by filing substantive OA within 30 days, and it was also observed that the substantive OA will be entertained and will not be dismissed on the ground of limitation, but in the substantive OA No. 354/2008, the applicant has not challenged the validity of the order dated 19.10.2004 and challenged the order dated 27.01.1997 and order passed by the Appellate Authority dated 28.07.2004, and as such the applicant has failed to comply the order dated 14.08.2008 passed in the previous OA No. 435/2004, hence, the R.A. deserves to be dismissed.

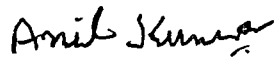
4. The law on this point is already settled and the Hon'ble Apex Court has categorically held that the matter cannot be heard on merit in the guise of power of review and further if the order or decision is wrong, the same cannot be corrected in the guise of power of review. What is the scope of Review Petition and under what circumstance such power can be exercised was considered by the Hon'ble Apex Court in the case of Ajit Kumar Rath Vs. State of Orissa, (1999) 9 SCC 596 wherein the Apex Court has held as under:

"The power of the Tribunal to review its judgment is the same as has been given to court under Section 114 or under Order 47 Rule 1 CPC. The power is not absolute and is hedged in by the restrictions indicated in Order 47 Rule 1 CPC. The power can be exercised on the application of a person on the discovery of new and important matter or evidence which,

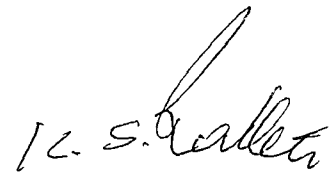


after the exercise of due diligence, was not within his knowledge or could not be produced by him at the time when the order was made. The power can also be exercised on account of some mistake of fact or error apparent on the face of record or for any other sufficient reason. A review cannot be claimed or asked for merely for a fresh hearing or arguments or correction of 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 fact without any elaborate argument being needed for establishing it. It may be pointed out that the expression 'any other sufficient reason' used in Order XL VII Rule 1 CPC means a reason sufficiently analogous to those specified in the rule".

5. In view of the law laid down by the Hon'ble Apex Court, we find no merit in this Review Application and the same is accordingly dismissed by circulation.



(ANIL KUMAR)  
Admv. Member



(JUSTICE K.S.RATHORE)  
Judl. Member

Kumawat