

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
JAIPUR BENCH

JAIPUR, this the 30th day of November, 2012

Review Application No. 23/2012
(Original Application No.399/2010)
with Misc. Application No.392/2012

Bhag Chand Sharma
s/o Shri Mool Chand Sharma,
r/o Q.No. A-2, Railway Loco Colony,
Jaipur, presently posted as
Khallasi in C.E. Office,
N.W.R., Jaipur

.....applicant

(By Advocate: Shri Sajid Ali)

Versus

1. Union of India through the General Manager, North Western Railway, Hasanpura Road, Jaipur.
2. Divisional Railway Manager, North Western Railway, Near Railway Station, Jaipur
3. Divisional Railway Manager, South Central Railway, Regional Branch, 5th Floor, Sanchalan Bhawan, Secunderabad.

..... respondents

(By Advocate: Shri Anupam Agarwal)

ORDER (By Circulation)

The present Review Application has been filed by the respondent No.1 in OA No. 399/2010 praying for reviewing/recalling the order dated 2nd August, 2012, Bhag Chand Sharma vs. Union of India and ors. passed in the aforesaid OA, but in opening part of



the Review Application, it has been mentioned "for review of judgment dt. 12.7.2011 passed in OA No. 123/2011, Padam Singh Verma vs. UOI."

2. Since a copy of the Review Application was given to the applicant in the OA, therefore, the applicant in the OA has also filed reply to the Review Application controverting the averments made in the Review Application.

3. The respondent No.1 in the OA has also filed a Misc. Application No. 392/2012 for condonation of delay in filing the Review Application giving justification for condonation of delay and the applicant in the OA has controverted the Misc. Application by way of filing reply. We have perused the averments made in the Misc. Application for condonation of delay as well as the order passed in the OA. The OA No.399/2010 was decided vide order dated 2.8.2012 whereas the present Review Application is filed on 26th November, 2012 i.e. after a lapse of more than 3 ½ months. As per clause (1) of Rule 17 of the Central Administrative Tribunal (Procedure) Rules, 1987, it is provided that no application for review shall be entertained unless it is filed within thirty days from the date of receipt of copy of the order sought to be reviewed.

4. The Hon'ble Supreme Court in para 4 of the judgment in the case of K.Ajit Babu vs. Union of India, reported in 1998 (1) SLJ 85 observed as under:-



".....Besides that, the right of review is available if such application is filed within the period of limitation. The decision given by the Tribunal, unless reviewed or appealed against, attains finality. If such a power to review is permitted, no decision is final, as the decision would be subject to review at any time at the instance of party feeling adversely affected by the said decision. A party in whose favour a decision has been given cannot monitor the case of all times to come. Public policy demands that there should be end to law suits and if the view of the tribunal is accepted the proceedings in a case will never come to an end. We, therefore, find that a right of review is available to the aggrieved persons on restricted ground mentioned in Order 47 of the Code of Civil Procedure, if filed within the period of limitation."

5. Having considered the Misc. Application as per clause (1) of Rule 17 as aforesaid and the ratio decided by the Hon'ble Supreme Court (supra), the review application is barred by limitation and we are not satisfied with the reasons given in the Misc. Application for condonation of delay.


6. Considering the matter on merit, we do not find any merit in this Review Application as the law on this point is already settled and the Hon'ble Apex Court has categorically held that the erroneous order or decision cannot be corrected in the guise of power of review and further the matter cannot be heard on merit 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".

7. Having considered the matter on merit as also according to the provisions of Rule 17 of Central Administrative Tribunal (Procedure) Rules, 1987 and the ratio decided by the Hon'ble Supreme Court in the cases cited supra, we are of the considered view that the Review Application is barred by limitation and also not maintainable on merit. Consequently, the Review Application and Misc. Application for condonation of delay are dismissed by circulation.


(ANIL KUMAR)
Admv. Member


(JUSTICE K.S.RATHORE)
Judl. Member

R/