

CENTRAL ADMINISTRATIVE TRIBUNAL
JAIPUR BENCH, JAIPUR

ORDERS OF THE BENCH

Date of Order: 18.11.2013

RA No. 21/2013 (OA No. 274/2007) with
MA No. 346/2013

Mr. Raj Kumar Sharma, counsel for applicant.

Heard learned counsel for the applicant.

R.A. and M.A. are disposed of by a separate order on
the separate sheets for the reasons recorded therein.

Anil Kumar
(ANIL KUMAR)
ADMINISTRATIVE MEMBER

Kumawat

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
JAIPUR BENCH

JAIPUR, this the 18th day of November, 2013

Review Application No. 21/2013
With
Misc. Application No. 346/2013
in
(Original Application No. 274/2007)

CORAM

Hon'ble Mr. Anil Kumar, Administrative Member

B.P. Kaushik son of Shri Kalyan Prasad, resident of House No. 224, Mahatma Gandhi Nagar, DCM, Ajmer Road, Jaipur (Rajasthan).

.. Applicant

(By Advocate: Mr. Raj Kumar Sharma)

Versus

1. Union of India through the Secretary to the Government of India, Department of Posts, Dak Bhawan, Sansad Marg, New Delhi.
2. Chief Post Master General, Rajasthan Circle, Jaipur (Rajasthan).
3. Senior Superintendent Post Offices, Jaipur City Division, Jaipur (Rajasthan).

.. Respondents

(By Advocate: -----)

ORDER

PER HON'BLE MR. ANIL KUMAR, ADMINISTRATIVE MEMBER

The present Review Application has been filed against the order dated 22.09.2011 of this Tribunal passed in OA No. 274/2007 (B.P. Kaushik vs. Union of India & Others).

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2. Heard the learned counsel for the applicant and perused the documents on record filed alongwith the Review Application.

3. This Review Petition has been filed on 14.10.2013 i.e. after the delay of about two years from the date of the order (22.09.2011 of this Tribunal). The applicant has also filed an MA No. 346/2013 for condonation of delay. However, I am not convinced with the reasons given by the applicant for filing the Review Application beyond the period of limitation. Moreover, the Full Bench of the Andhra Pradesh High Court in the case of **G.Nara Simha Rao vs. Regional Joint Director of School Education** (W.P. 21738 of 1998) has already held that the Tribunal has no jurisdiction to condone the delay by taking aid and assistance of either sub-section (3) of Section 21 of the Administrative Tribunals Act or Section 29(2) of the Limitation Act.

4. Further the Hon'ble Supreme Court in the case of **K. Ajit Babu & Others vs. Union of India & Others**, 1997 SCC (L&S), in Para No. 4 has held that:-

".....The right of review is not a right of appeal where all questions decided are open to challenge. The right of review is possible only on limited grounds, mentioned in Order 47 of the Code of Civil Procedure. Although strictly speaking Order 47 of the Code of Civil Procedure may not be applicable to the tribunals but the principles contained therein surely have to be extended. Otherwise there being no limitation on the power of review it would be an appeal and there would be no certainty of finality of a decision. Besides that, the right of review is available if such an 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 the party feeling adversely affected by the said decision. A party in whose favour a decision has been given cannot monitor the case for all times to come. Public policy demands that there

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should be an 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. Therefore, this Review Application is not maintainable as it is filed beyond the period of limitation. Accordingly, the Misc. Application No. 346/2013 for condonation of delay stands dismissed.

6. Even on merit the present Review Application is not maintainable. By means of this Review Application, the applicant is trying to reopen all issues decided by this Tribunal in OA No. 274/2007 (B.P. Kaushik vs. Union of India & Others), which is not permissible under the law for review proceedings.

7. The Hon'ble Apex Court in the case of **Smt. Meera Bhanja vs. Nirmal Kumari**, AIR 1995 SC 455, observed that reappreciating facts/law amounts to overstepping the jurisdiction conferred upon the Courts/Tribunals 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 as held by Hon'ble Supreme Court.

8. 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

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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 XLVII Rule 1 CPC means a reason sufficiently analogous to those specified in the rule".

9. Therefore, the present Review Application is liable to be dismissed not only on the point of limitation but also on merit. I do not find any patent error of law or facts in the order dated 22.09.2011 passed in OA No. 274/2007 (B.P. Kaushik vs. Union of India & Others) Therefore, in view of the law laid down by the Hon'ble Apex Court, I find no merit in this Review Application and the same is accordingly dismissed.

Anil Kumar
(Anil Kumar)
Member (A)