

RESERVED.

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD BENCH ALLAHABAD

This is the 14TH day of September 2018.

Review Application No. 330/00035 of 2017
IN
ORIGINAL APPLICATION NO. 1495 of 2013

Present:

HON'BLE MR RAKESH SAGAR JAIN, MEMBER (J).

1. Union of India through General Manager, North Central Railway, Allahabad
2. Divisional Railway Manager, North Central Railway, Jhansi Division, Jhansi.
3. Senior Divisional Finance Manager, North Central Railway, Jhansi Division, Jhansi.
4. Senior Divisional Personnel Officer, North Central Railway, Jhansi Division, Jhansi.

.....Applicants.

By Advocate: Shri Kaushleh Pratap Singh

VERSUS

Smt. Daisy Joseph Lal, L/R of Late Joseph Lal (the original applicant),
R/o 7, Mitrapuram, Kehrai Mord, Shamshabad Road, Agra.

.....Respondent

By Advocate : Shri M.K. Srivastava

ORDER

1. The application for condonation of delay is disposed by condoning the delay in filing the review application.
2. This order disposes of the Review Application filed by the petitioner Union of India through DRM, North Central Railway, Jhansi seeking review of the order dated 01.06.2017 whereby O.A. 1495 of 2013 titled Smt. Daisy Joseph Lal v/s Union of India was disposed of.

3. In the O.A., applicant had sought the relief of providing pension to her deceased husband along with benefits provided in 6th Pay Commission payable to the pensioners..
4. The Tribunal disposed of the aforementioned O.A. by holding that
“Accordingly, the OA is partly allowed. The respondents are directed to add 50% of the period of MRCL to the actual qualifying service granted by the respondents i.e. 27 years 2 months and 2 days for the purpose of pensionable service. The applicant herein would also be entitled for consequential benefits. The compliance of the order be made within a period of three months from the date of receipt of certified copy of this order”.
5. Applicant seeks review of the order dated 01.06.2017 and thereby has prayed that the order disposing of the O.A. be reviewed and modified.
6. The applicant seeks review of the order on the ground:
 - 1) Because the impugned order dated 1.6.2017 is based upon wrong appreciation of facts and finding given in the aforesaid judgment, which is contrary to the evidence.
 - 2) Because the relevant rules could not be placed before the Tribunal, which in fact goes into the root of the case, hence the impugned order is liable to be reviewed.
 - 3) Because Tribunal has not considered the averments made in the counter reply filed by the applicant.
 - 4) Because the relevant facts and circumstances have not been taken into cognizance by the Tribunal while passing the order dated 1.6.2007.
7. I have heard and considered the arguments of learned counsels for the parties and gone through the material on record.

8. It is settled law that review jurisdiction is available only on the grounds prescribed under Order XLVII Rule 1 of the Code of Civil Procedure, which contains only three grounds –

(i) mistake or error apparent on the face of record;

(ii) discovery of new and important matter or evidence, which, even after exercise of due diligence, was not within the knowledge of the review petitioner or could not be produced by him at the time when the order sought to be reviewed was passed; and

(iii) for any other sufficient reason.

9. The law governing the scope of review has been very succinctly laid down by the Hon'ble Court in:

- I. ***Ajit Kumar Rath v. State of Orissa and others, (1999) 9 SCC 596***, 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. Any other attempt, except an attempt to correct an apparent error, or an attempt not based on any ground set out in Order 47 of the Code of Civil Procedure, would amount to an abuse of the liberty given to the Tribunal under the Act to review its judgment.
- II. ***Union of India v. Tarit Ranjan Das, 2004 SCC (L&S) 160***, the scope for review is rather limited, and it is not permissible for the forum hearing the review application to act as an appellate court in respect of the original order, by a fresh order and rehearing the matter to facilitate a change of opinion on merits.

III. ***Inder Chand Jain(Dead) Through Lrs, Vs.Motilal (Dead) Through Lrs. Reported in (2009) 14 SCC 663***, It is beyond

any doubt or dispute that the review court does not sit in appeal over its own order. A rehearing of the matter is impermissible in law or pronounced, it should not be altered. It is also trite that exercise of inherent jurisdiction is not invoked for reviewing any order.

IV. Review is not appeal in disguised. In Lily Thomas Vs. Union of India, It follows, therefore, that the power of review can be exercised for correction of a mistake but not to substitute a view. Such powers can be exercised within the limits of the statute dealing with the exercise of power.

The review cannot be treated like an appeal in disguise.”

10. Keeping in mind the principles laid down by the Hon’ble Apex Court in the above decisions, I have considered the claim of the review petitioners and find out whether a case has been made out by them for review of the order dated 01.06.2017 whereby O.A. 1495 of 2013 titled Smt. Daisy Joseph Lal v/s Union of India was disposed of.

11. After going through the records of OA No.1495 of 2013 and of the present R.A., I have found that the applicant-review has more or less repeated his old pleas which have been overruled by the Tribunal, vide order dated 01.06.2017(ibid). It has been averred in application by the applicant that the Tribunal has failed to appreciate the materials available on record as well as the contentions raised by him. A review is by no means an appeal in disguise whereby an erroneous decision is reheard and corrected, but lies only for patent error. The appreciation of evidence/ materials on record, being fully within the domain of the appellate court, cannot be permitted to be advanced in the review petition. In a review petition, it is not open to the Tribunal to re-appreciate the evidence/materials and reach a different conclusion, even if that is possible. Conclusion arrived at on appreciation of evidence/materials and contentions of the

parties, which were available on record, cannot be assailed in a review petition, unless it is shown that there is an error apparent on the face of the record or for some reason akin thereto. The applicant have not shown any material error, manifest on the face of the order under review dated 01.06.2017, which undermines its soundness, or results in miscarriage of justice. If the applicant-review petitioner is not satisfied with the order passed by this Tribunal, remedy lies elsewhere. The scope of review is very limited. It is not permissible for the Tribunal to act as an appellate court.

12. Through this review application, the review applicant wants to re-open the entire issue afresh which is not permissible in review. Review is permissible if there is an error of procedure apparent on the face of the record. The order was passed after hearing both the parties and all the points were discussed in the judgment which is again taken by the applicant in the review application, as such, found no error apparent on the face of record.
13. In the light of what has been discussed above, I do not find that the review application is covered by the aforementioned three grounds to justify a review of the order dated 01.06.2017.
14. I do not find any valid ground to interfere. Thus, the review application is dismissed. No order as to costs.

(Rakesh Sagar Jain)

Member (J)

Manish/-