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**CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH, ALLAHABAD**

(THIS THE 14th DAY of February, 2018)

HON'BLE MR. JUSTICE DINESH GUPTA, MEMBER (J)
HON'BLE MR. GOKUL CHANDRA PATI, MEMBER (A)

Civil Misc. Delay Condonation Application No. 330/00143/2018

With

Civil Misc. Review Application No. 330/00002/2018

Union of India and others.

..... Applicants

V E R S U S

Mata Badal Agnihotri.

..... Respondent

In

Original Application No. 330/01592 / 2010.

Mata Badal Agnihotri

.....applicant

V E R S U S

Union of India and others.

.....Respondents

Advocate for the Applicants :- Shri Rakesh Kumar Srivastava
Advocate for the Respondents:-

O R D E R

Delivered by Hon'ble Mr. Gokul Chandra Pati, Member (A)

The instant Review Application (in short RA) is directed against the order dated 21.09.2017 passed by this Tribunal in OA No. 1592/2010 (Mata Badal Agnihotri Vs. U.O.I. & Ors) and filed by the respondents in the OA. The RA has been filed with a delay of more than three months alongwith a delay condonation application No. 143/2018 to condone delay in filing this RA. It is seen that no specific reason for delay is mentioned in the application except mentioning the following reason:-

“That the reasons for delay in filing the present review application was on account of official procedure and

heavy workload and not deliberate or intentional, as such.....”

It seen from above, no specific reason or the stage where it was delayed to obtain approval etc. has been mentioned in the application. It is difficult for us to condone delay in filing the RA in absence of these details.

2. Main grounds mentioned in the RA to review the order dated 21.09.2018 of this Tribunal in OA No. 1592/2010 are as under: -

- a. Necessary documents regarding military service of the applicant was never submitted by the applicant nor it was available in the service record of the applicant. The applicant also did not give option to count his previous military service as qualifying service in re-employment in civil post as required under rule 19 of CCS (Pension) Rules 1972.
- b. Due to non-submission of required documents regarding military services and failure to exercise option for providing benefits of ex-military service, the request of the applicant just before his retirement was rejected.
- c. A letter dated 19.03.1998 issued from Kumau Regiment, Rani Khet was also enclosed at Annexure No. 6 to the Suppl. Counter Affidavit informing respondent No. 5 that the applicant was discharged from military service on compassionate grounds and he was not an Ex service man.
- d. In para 9 of the Suppl. Counter Affidavit, it was clearly stated that regarding counting of military service the applicant submitted an application dated 04.05.2000 mentioning therein that he has no record. Thus, it is clear

that the applicant has not given any option as required under rule 19 of CCS (Pension) Rules, 1972.

- e. The Tribunal at the time of passing the order dated 21.09.2017 did not consider the aforesaid facts and documents which were already on record.

2. We have carefully considered the Review Application and find that the grounds mentioned relate to the merits of the case and are included in the pleadings available on record. These grounds have been duly considered while passing the order dated 21.09.2017. Under Rule 1 of the Order 47 of CPC, the scope for review of the order passed by this Tribunal is limited and may be allowed only on the grounds of (i) discovery of any new and important facts or evidence which was not within the applicant's knowledge and which could not be produced at the time of consideration of the O.A.; or (ii) some mistake or error apparent on the fact of the record; or (iii) for any other sufficient reasons. It is seen that the grounds mentioned in the RA cannot be treated as new facts.

3. The grounds mentioned in the Review Application i.e. the applicant did not furnish his option at the time of joining the service under the respondents and he remained silent till just before his retirement have been considered while passing the order dated 21.09.2017 as would be clear from the paragraphs 14, 15 and 16 of the order and reasons for not accepting these contentions have also been discussed in the order. Hence, the grounds mentioned in the RA cannot be treated as mistakes or errors apparent on the fact of the record.

4. In the case of *State Of West Bengal And Others v. Kamal Sengupta and another* reported in (2008) 8 SCC 612, Hon'ble Supreme Court after taking into account almost entire case law on review, has held as under:

“22. The term “mistake or error apparent” by its very connotation signifies an error which is evident per se from the record of the case and does not require detailed examination, scrutiny and elucidation either of the facts or the legal position. If an error is not self-evident and detection thereof requires long debate and process of reasoning, it cannot be treated as an error apparent on the face of the record for the purpose of order 47 rule 1 cpc or section 22(3)(f) of the Act. To put it differently an order or decision or judgment cannot be corrected merely because it is erroneous in law or on the ground that a different view could have been taken by the court/tribunal on a point of fact or law. In any case, while exercising the power of review, the court/tribunal concerned cannot sit in appeal over its judgment/decision.”

5. The position of law in this regard has been examined in the judgement of Hon'ble Supreme Court in the case of **Kamlesh Verma v. Mayawati And Others** reported in 2013 AIR SC 3301 with following observations:

“15. Review proceedings are not by way of an appeal and have to be strictly confined to the scope and ambit of order 47 rule 1 cpc. In review jurisdiction, mere disagreement with the view of the judgment cannot be the ground for invoking the same. As long as the point is already dealt with and answered, the parties are not entitled to challenge the impugned judgment in the guise that an alternative view is possible under the review jurisdiction.

Summary of the principles

16. Thus, in view of the above, the following grounds of review are maintainable as stipulated by the statute:

(A). When the review will be maintainable:

- (i) Discovery of new and important matter or evidence which, after the exercise of due diligence, was not within knowledge of the petitioner or could not be produced by him;
- (ii) Mistake or error apparent on the face of the record;
- (iii) Any other sufficient reason.

The words “any other sufficient reason” have been interpreted in [Chhajju Ram v. Neki](#), AIR 1922 PC 112 and approved by this Court in **Moran Mar Basselios Catholicos v. Most Rev. Mar Poulouse Athanasius & Ors** (1955) 1 SCR 520 : (AIR 1954 SC 526), to mean “a reason sufficient on

grounds at least analogous to those specified in the rule". The same principles have been reiterated in **Union of India v. Sandur Manganese & Iron Ores Ltd & Ors.** [JT 2013 8 SC 275](#): (2013 AIR SCW 2905).

(B) When the review will not be maintainable:

(i) A repetition of old and overruled argument is not enough to reopen concluded adjudications.

(ii) Minor mistakes of inconsequential import.

(iii) Review proceedings cannot be equated with the original hearing of the case.

(iv) Review is not maintainable unless the material error, manifest on the face of the order, undermines its soundness or results in miscarriage of justice.

(v) A review is by no means an appeal in disguise whereby an erroneous decision is reheard and corrected but lies only for patent error.

(vi) The mere possibility of two views on the subject cannot be a ground for review.

(vii) The error apparent on the face of the record should not be an error which has to be fished out and searched.

(viii) The appreciation of evidence on record is fully within the domain of the appellate court, it cannot be permitted to be advanced in the review petition.

(ix) Review is not maintainable when the same relief sought at the time of arguing the main matter had been negatived."

6. In view of above discussions, the Misc. Delay Condonation Application and the Review Application are dismissed being devoid of merit.

7. The Registry is directed to communicate copy of this order to learned counsels for both the parties.

MEMBER (A)

MEMBER (J)

Anand...