**(Open Court)**

**CENTRAL ADMINISTRATIVE TRIBUNAL**
**ALLAHABAD BENCH, ALLAHABAD**
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(THIS THE 28th DAY of **August**, **2018**)

**HON'BLE MR. GOKUL CHANDRA PATI, MEMBER (A)**
**HON'BLE MR. RAKESH SAGAR JAIN, MEMBER (J)**

Civil Misc. Review Application No. 330/00036/2018
**In**

**Original Application No. 330/01505 / 2009**.

Hasan Raza.

..... Applicant

**V E R S U S**

Union of India and others .

..... Respondents

**Advocate for the Applicant :- Shri Sudama Ram**
**Advocate for the Respondents:- Shri L.M. Singh**

**O R D E R**
**Delivered by Hon'ble Mr. Gokul Chandra Pati, Member (A)**

The instant Review Application (in short RA) has been filed by the applicant against the order dated 19.06.2018 passed by this Tribunal in OA No. 330/01505/2009 (Hasan Raza Vs. U.O.I. & Ors) by which the O.A. was allowed with following direction: -

> "28. In view of above discussions and as per the ratio of the judgment of Hon'ble Apex Court in the case of B.C. Chaturvedi (supra) and in other cases as discussed above, this Tribunal will be justified to judicially review the present disciplinary proceedings against the applicant in the interest of justice. Normally we would have quashed the punishment order and remitted the case to the disciplinary authority (respondent no. 2) to reconsider the case in accordance with the provisions of the Railway Servants (Discipline and Appeal) Rules, 1968 taking into account the observations made in this order and to pass an appropriate order. But in this case, the applicant is already retired from service since long and as discussed in para 26, the finding of the Inquiry Officer that the battery box was loaded on 19.1.2004 is questionable. Further, as stated in the Rejoinder filed by the applicant, Shri Ram Sunder was given minor punishment of suspending three railway passes for same or similar charges, without any implication on his salary. In the circumstances, the

chargesheet against the applicant as well as the findings of the Disciplinary Authority and the Appellate Authority imposing the impugned penalty on the applicant are perverse and contrary to the facts on record. Accordingly, the chargesheet dated 10/11.2.2004 (Annexure A-1), the order dated 22/23.7.2004 (Annexure A-3), the order dated 10/11.01.2005 (Annexure A-4), the order dated 23/24.06.2005(Annexure A-5), the order dated 17.2.2007 (Annexure A-7) and the order dated 6.3.2009 (Annexure A-8) are set aside and quashed. We would not like to remit the matter to the respondents for fresh consideration as it would further delay the matter. Therefore, the respondents are directed to extend all consequential post retirement benefits to the applicant and refund the amount recovered from the applicant in pursuance of the penalty order, since the chargesheet and the penalty orders are quashed. It is, however, clarified that the applicant will not be entitled to any arrear salary by virtue of this order.

29. The OA is allowed in terms of the above directions. No order as to costs.".

2. The main grounds raised in the RA to review the order dated 19.06.2018 of this Tribunal in OA No. 1505/2009 are as under: -

a. There are apparent errors of fact and law on the face of record in the order dated 19.06.2018 which need to be corrected .

b. Following errors crept in the order dated 19.06.2018, which are typographical in nature: -

(a). In para 4 at page 5 of the order to correct the date "21.2.2004 to 24.01.2004" replacing it by "21.1.2004 to 24.1.2004".

(b). In last of para 8 of the order, to add and correct "Rule 25-A in place of Rule 29.

c. While allowing the OA vide order dated 19.06.2018, the consequential benefits have not been allowed.

3. The review of the order of this Tribunal is done under the section 22(3)(f) of the Administrative Tribunals Act, 1985 read with

provisions of the Rule 1 of Order 47 of the CPC, which states as under: -

> "1. Application for review of judgment – (1) Any person considering himself aggrieved –
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> (a). by a decree or order from which an appeal is allowed, but from which no appeal has been preferred,
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> (b). by a decree or order from which no appeal is allowed, or
>
> (c). by a decision on a reference from a Court of Small Causes,
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> and who, from 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 decree was passed or order made, or on account of some mistake or error apparent on the face of the record, or for any other sufficient reason, desires to obtain a review of the decree passed or order made against him, may apply for a review of judgment to the Court which passed the decree or made the order.
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> 2. A party who is not appealing from a decree or order may apply for a review of judgment notwithstanding the pendency of an appeal by some other party except where the ground of such appeal is common to the applicant and the appellant, or when, being respondent, he can present to the Appellate Court the case on which he applies for the review.
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> (Explanation - The fact the decision on a question of law on which the judgment of the Court is based has been reveres or modified by the subsequent decision of a superior Court in any other case, shall not be a ground for the review of such judgment."

4. There are a number of judgments of Hon'ble Apex Court with the findings that the review application cannot be entertained with regard to any prayer which has not been considered or for any reason or error not apparent on the face of the record and the review cannot be a rehearing or reconsideration of the O.A. In the case of **Kamlesh Verma v. Mayawati And Others** reported in 2013 AIR SC 3301, Hon'ble Supreme Court has held as under: -

> "18. Review is not rehearing of an original matter. The power of review cannot be confused with appellate power which enables a superior court to correct all errors committed by a subordinate court. A repetition of old and overruled argument is not enough to reopen concluded adjudications. This Court in Jain Studios Ltd. v. Shin Satellite Public Co. Ltd. 2006 5 SCC 501, held as under: (SCC pp. 504-505, paras 11-12)
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> .....

19. 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

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

20.1 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 and approved by this Court in **Moran Mar Basselios Catholicos v. Most Rev. Mar Poulose Athanasius** 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. JT** 2013 8 SC 275

20.2 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."

5. We have heard Shri Sudam Ram, learned counsel for the applicant and Shri L.M. Singh, learned counsel for respondents.

Applicant's counsel pointed out that there are some errors apparent on the face of the record, as mentioned in the review application. Learned counsel for the respondents submitted that the applicant in the RA has prayed for all consequential benefits and such ground is not permissible under review application.

6. If we consider the present Review Application in the light of the law as discussed above, the prayer for consideration of all consequential benefits to the applicant as a result of quashing of the impugned order is not a ground which is permissible while considering the RA. In the impugned order dated 19.06.2018, while the chargesheet as well as the penalty orders are quashed, the arrear of salary or back wages have been specifically disallowed. Hence, the same cannot be considered as "consequential benefit" as prayed for in this review application, because such a ground for review is not permissible under law. However, as stated in the order dated 19.06.2018, the applicant will be entitled for all consequential post retiral benefits and for refund of amount recovered from the applicant in pursuance of penalty order.

7. The prayer relating to correction of the words to correct "Rule 25-A" and place of "Rule 29" in para 8 of the order dated 17.06.2018, it is seen that the word "Rule 29" used in para 8 of the order was with reference to the case of T. Velayudham Vs. the Superintending Engineer, Electricity Department, Pondichery and Another (1988) 6 Administrative Tribunals Cases 346, in which the Rule 29 of CCS (CCA) Rules, 1965 was the issue. Hence, the rule 29 was correctly mentioned in the para 8 of the order and it is not a mistake.

8. Regarding the prayer to correct the date “21.02.2004 to 24.01.2004” by “21.01.2004 to 24.01.2004”. It is seen that the date has been wrongly mentioned as 21.02.2004 due to typographical error. It is an error apparent on the face of the record and at the beginning of the para 4, the period when the applicant was on leave, is mentioned to be from 21.01.2004 to 24.01.2004. Hence, this prayer in the Review Application is allowed and the date “21.02.2004” mentioned in para 4 at page 5 of the order dated 19.06.2018 of this Tribunal in OA No. 1505/2009 shall stand corrected to “21.01.2004”.

9. The Review Application is allowed only in respect of the prayer to correct the typographical error in para 4 at page 5 of the order dated 19.06.2018 in which the date “21.02.2004” shall be read as “21.01.2004”, as discussed above.

10. The Review Application is accordingly disposed of. No costs.

MEMBER (J) MEMBER (A)

*Anand…*