

**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH**

**RA NO.13/2016
IN
OA NO.4021/2014**

Order reserved on 14.07.2016
Order pronounced on 18.07.2016

**HON'BLE MR SUDHIR KUMAR, MEMBER (A)
HON'BLE DR BRAHM AVTAR AGRAWAL, MEMBER (J)**

Shri Bhim Sain

...Review Applicant

(By Advocate: Shri D.S. Chaudhary, Dr. L.S. Chaudhary & Shri Ajay Chaudhary)

VERSUS

Union of India & Anr.

...Respondents

(By Advocate: Shri Subhash Gosai for R-1 & Dr. Vikrant Narayan for R-2)

:O R D E R:

DR BRAHM AVTAR AGRAWAL, MEMBER (J):

This RA has been filed on behalf of the applicant in the OA No.4021/2014 seeking review of our Order dated 07.08.2015 passed in the said OA (vide Annexure RA/1), after withdrawing the writ petition filed before the Hon'ble High Court of Delhi against the said Order (vide Annexure RA/2).

2. We have heard the arguments advanced by the learned counsel for the parties, perused the pleadings and the judgments cited by the learned counsel for the review applicant [viz., Tata Engineering & Locomotive Co. Ltd. Vs. Jitendra Pd. Singh & Anr., (2001) 10 SCC 530; Rajendra Yadav Vs. St. of M.P., (2013) 3 SCC 73] and bestowed our careful consideration on the matter.

3. The contention of the learned counsel for the applicant is that this Tribunal did not consider his plea in the OA as to denial of equality vis-à-vis some other delinquents in terms of penalty.

4. The aforesaid plea had been raised before the disciplinary authority and the disciplinary authority observed: "each case is required to be decided based on its facts and circumstances and merits by the disciplinary authority concerned" (vide Annexure A/1).

5. It is correct that the aforesaid plea has not been specifically discussed in our Order dated 07.08.2015, but we do not think that this was necessary. The learned counsel for the applicant, during the course of his arguments on the OA, had mainly relied on the Hon'ble Gauhati High Court's judgment in Writ Appeal No.119/2008, which we specifically dealt with in paragraph 3 of our Order. Moreover, it is not within the scope of the powers of

judicial review, within this Tribunal's purview, to substitute its own different view, even if it holds one, in place of the view taken by the disciplinary authority.

6. In *State of West Bengal and Ors. Vs. Kamal Sengupta and Anr.* [2008(9) SCALE 504], the Hon'ble Supreme Court laid down the following principles on the scope of review by this Tribunal:

- “(i) The power of the Tribunal to review its order/decision under [Section 22\(3\)\(f\)](#) of the Act is akin/analogous to the power of a Civil Court under [Section 114](#) read with Order 47 Rule 1 of CPC.
- (ii) The Tribunal can review its decision on either of the grounds enumerated in Order 47 Rule 1 and not otherwise.
- (iii) The expression "any other sufficient reason" appearing in Order 47 Rule 1 has to be interpreted in the light of other specified grounds.
- (iv) An error which is not self-evident and which can be discovered by a long process of reasoning, cannot be treated as an error apparent on the face of record justifying exercise of power under [Section 22\(3\)\(f\)](#).
- (v) An erroneous order/decision cannot be corrected in the guise of exercise of power of review.
- (vi) A decision/order cannot be reviewed under [Section 22\(3\)\(f\)](#) on the basis of subsequent decision/judgment of a coordinate or larger bench of the Tribunal or of a superior Court.
- (vii) While considering an application for review, the Tribunal must confine its adjudication with reference to material which was available at the time of initial decision. The happening of some subsequent event or development cannot be taken note of for declaring the initial order/decision as vitiated by an error apparent.
- (viii) Mere discovery of new or important matter or evidence is not sufficient ground for review. The party seeking review has also to show that such matter or evidence was not within its knowledge and even after

the exercise of due diligence, the same could not be produced before the Court/Tribunal earlier.”

7. We find that none of the grounds for review as given in Order XLVII Rule 1, CPC has been successfully put up.
8. Hence, the RA is rejected.

(Dr. Brahm Avtar Agrawal)
Member (J)

(Sudhir Kumar)
Member (A)

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