

**Central Administrative Tribunal  
Principal Bench, New Delhi.**

**RA-169/2016 in  
OA-1437/2015**

**New Delhi this the 22<sup>nd</sup> day of August, 2016.**

**Hon'ble Mr. Shekhar Agarwal, Member (A)**

Tilak Raj Singh, 51 years  
S/o Sh. Harcharan,  
R/o 364, Prabhat Nagar,  
Meerut, UP.

..... Review Applicant

Versus

1. Union of India through  
Its Secretary,  
Ministry of Finance,  
Department of Revenue,  
Sought Block, New Delhi-110001.
  
2. The Commissioner of Income Tax,  
Meerut Region,  
Meerut, UP. .... Respondents

**ORDER (By Circulation)**

This review application has been filed by the applicant for review of my order dated 26.07.2016 by which the O.A. had been dismissed.

2. I have gone through the review application. After reiterating the facts of the case, as mentioned in the OA, the review applicant has submitted that he had taken voluntary retirement on account of disability suffered by him. The applicant was in pain and was not able to walk upto the second and third floor where he was posted.

He has argued that because of this his ward had become entitled for appointment on compassionate grounds. The respondents had acted in violation of the order of Hon'ble Supreme Court and of DoP&T as well as against the provision of Disability Act.

3. I have considered the aforesaid submission. On going through the judgment, I find that I had dismissed the OA on the ground that the applicant had taken voluntary retirement from service and had not been retired on medical grounds by the respondents. Further, as per the provisions of the Scheme for compassionate appointment, a dependent family member of only those government employees who were retired on medical grounds were entitled to appointment on compassionate grounds. Since the applicant had taken voluntary retirement, even though it was on medical grounds, he was not covered under the aforesaid Scheme. This is a finding arrived at by me after perusal of the material placed on record. If the applicant is aggrieved by the same, appropriate course of action for him would be to challenge this finding in higher judicial forum. This is not an error apparent on the face of the record, which can be corrected by means of a review application. It is clearly outside the scope of review.

4. While considering the scope of review, Hon'ble Supreme Court in the case of **Aribam Tuleshwar Sharma Vs. Aribam Pishak Sharma**,

(1979) 4 SCC 389 referred to an earlier decision in the case of **Shivdeo singh Vs. State of Punjab**, AIR 1963 SC 1909 and observed as under:-

"It is true as observed by this Court in **Shivdeo Singh v. State of Punjab**, AIR 1963 SC 1909, there is nothing in Article 226 of the Constitution to preclude a High Court from exercising the power of review which is inherent in every Court of plenary jurisdiction to prevent miscarriage of justice or to correct grave and palpable errors committed by it. But, there are definitive limits to the exercise of the power of review. The power of review may be exercised on the discovery of new and important matter or evidence which, after the exercise of due diligence was not within the knowledge of the person seeking the review or could not be produced by him at the time when the order was made; it may be exercised where some mistake or error apparent on the face of the record is found; it may also be exercised on any analogous ground. But, it may not be exercised on the ground that the decision was erroneous on merits. That would be the province of a Court of appeal. A power of review is not to be confused with appellate power which may enable an Appellate Court to correct all matters or errors committed by the Subordinate Court."

4.1 Similarly in the case of **Ajit Kumar Rath Vs. State of Orissa and Others**, AIR 2000 SC 85 the Apex Court reiterated that power of review vested in the Tribunal is similar to the one conferred upon a Civil Court and held:-

"The provisions extracted above indicate that the power of review available to the Tribunal is the same as has been given to a court under Section 114 read with Order 47 CPC. The power is not absolute and is hedged in by the restrictions indicated in Order 47. The power can be exercised on the application on account of some mistake or error apparent on the face of the 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 face without any elaborate argument being needed for establishing it. **It may be pointed out that the expression “any other sufficient reason” used in Order 47 Rule 1 means a reason sufficiently in the rule.**

**Any other attempt, except an attempt to correct an apparent error or an attempt not based on any ground set out in Order 47, would amount to an abuse of the liberty given to the Tribunal under the Act to review its judgment.”**

[Emphasis added]

4.2 In the case of **Gopal Singh Vs. State Cadre Forest Officers' Assn. and Others** [2007 (9) SCC 369], the Apex Court held that after rejecting the original application filed by the appellant, there was no justification for the Tribunal to review its order and allow the revision of the appellant. Some of the observations made in that judgment are extracted below:-

“The learned counsel for the State also pointed out that there was no necessity whatsoever on the part of the Tribunal to review its own judgment. Even after the microscopic examination of the judgment of the Tribunal we could not find a single reason in the whole judgment as to how the review was justified and for what reasons. No apparent error on the face of the record was pointed, nor was it discussed. Thereby the Tribunal sat as an appellate authority over its own judgment. This was completely impermissible and we agree with the High Court (Justice Sinha) that the Tribunal has traveled out of its jurisdiction to write a second order in the

name of reviewing its own judgment. In fact the learned counsel for the appellant did not address us on this very vital aspect."

5. Thus, I come to the conclusion that there is no merit in the review application and the same is dismissed in circulation.

**(Shekhar Agarwal)  
Member (A)**

/Vinita/