Central Administrative Tribunal
Principal Bench, New Delhi.

RA-221/2017 in
OA-3051/2017

New Delhi this the 27th day of November, 2017.

Hon'ble Ms. Praveen Mahajan, Member (A)

Smt. Ravinder Kaur,
W/o Late Sh. Jagjit Singh,
R/o B-71, Subhadra Colony,
Sarai Rohilla,
Delhi-110 035. .... Review Applicant

Versus

1. Services Department
   Through Secretary (Services),
   Govt. of National Capital Territory of Delhi,
   Delhi Secretariat, 5th Level, A-Wing,
   I.P. Estate, New Delhi-110 002.

2. Directorate of Education
   Through Director,
   Near Vidhan Sabha,
   Civil Lines, New Delhi. .... Respondents

ORDER (By Circulation)

This review application has been filed for review of my order dated 05.09.2017 by which OA-3051/2017 was dismissed.

2. Existence of error apparent on the face of record is *sine qua non* for entertainment of the review application.

3. I have perused the judgment under review as also the grounds of review. I do not find any error apparent on the face of record warranting interference in exercise of the review jurisdiction.

4. If the contention of the review applicant is accepted it would amount to sitting in judgment over my own order and writing a fresh

judgment. 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. On the basis of above, I feel that review is not an appropriate remedy in this case. If the applicant is aggrieved by this order, the right course of action would be to challenge it before the appropriate forum. Hence, the review application is without merit and is rejected in circulation.

6. However, the review applicant has pointed out certain clerical mistakes in para-3 of my order wherein it has been mentioned that late Sh. Jagjit Singh was father of the applicant whereas late Sh. Jagjit Singh was husband of the applicant. Secondly, the name of applicant's counsel has been wrongly mentioned as Sh. Arun Kumar Prasad instead of Sh. Arun Kumar Panwar. On going through the same, I find that these clerical mistakes have indeed crept in the order, inadvertently. Therefore, in first line of para-3 of my order the word "father" should be read as "husband" and name of the applicant's counsel mentioned as Sh. Arun Kr. Prasad should be read as "Sh. Arun Kumar Panwar". Registry is directed to carry out the necessary corrections in the original order.

(Praveen Mahajan)
Member (A)

/vinita/