

**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH**

RA 250/2015 in
OA 4214/2013

New Delhi this the 28th day of September, 2015

Hon'ble Mr. V. Ajay Kumar, Member (J)
Hon'ble Mr. P.K. Basu, Member (A)

Dr. (Smt.) Sunita Shukla
Additional Director
R/o C-13/2, Sector-3, Rohini,
Delhi

... Applicant

Versus

1. State of NCT of Delhi
Through its Chief Secretary/
Secretary Education
Secretariat, Players Building
Indraprastha Estate,
New Delhi
2. Principal Secretary Education
Govt. of NCT of Delhi
Old Secretariat,
New Delhi
3. Director of Education
Directorate of Education
Old Secretariat,
New Delhi

... Respondents

ORDER (In Circulation)

Mr. P.K. Basu, Member (A)

This Review Application (RA) has been filed against the order dated 1.07.2015 passed by us in OA 4214/2013 by which we have dismissed the OA.

2. The RA has been filed on the ground that the Tribunal has simply relied on the submissions of the respondents and applied the judgment of the Hon'ble Supreme Court propounding the principle of "no work no pay" in cases where the Court while reinstating declined back wages but this was not the issue in the OA.

3. Regarding review, the Hon'ble Supreme Court has settled the law in the following cases:

- (i) **Kamlesh Verma Vs. Mayawati and others,** (2013) 8 SCC 320 where the Hon'ble Supreme Court has laid down the following contours with regard to maintainability, or otherwise, of review petition:

"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* (AIR 1922 PC 122) and approved by this Court in *Moran Mar Basselios Catholicos v. Most Rev. Mar Poulse Athanasius* (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 vs. Sandur Manganese & Iron Ores Ltd.* (2013 (8) SCC 337).

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 negated."

(ii) **State of West Bengal and others Vs. Kamal Sengupta and another**, (2008) 2 SCC (L&S) 735 where the Hon'ble Supreme court scanned various earlier judgments and summarized the principles laid down therein which read thus:

"35. The principles which can be culled out from the above-noted judgments are:

(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 CPC.

(ii) The Tribunal can review its decision on either of the grounds enumerated in Order 47 Rule 1 CPC.

(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."

4. Testing the present RA on the principles laid down by the Hon'ble Supreme Court, we find that this is nothing but an

attempt to reargue the case as the reasoning on which we have rejected the plea is very clear in paragraph 7 of our order.

5. In case the applicant is not satisfied with our order, RA is not the remedy because there is no error apparent on the face of the record, which the applicant has been able to point out. The RA is, therefore, dismissed in circulation.

(P.K. Basu)
Member (A)

(V. Ajay Kumar)
Member (J)

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