

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

R.A. No.251/2015
in
O.A. No.4472/2013

This the 29th Day of September, 2015

Hon'ble Shri G. George Paracken, Member (A)

Union of India through:

1. The General Manager,
Northern Railway,
Baroda House, New Delhi.
2. The Divisional Railway Manager,
Northern Railway,
S.E. Road, New Delhi.
3. Sr. DME/Diesels,
Northern Railway,
Tugalkabad, Delhi. .. Review Applicants in
RA/Respondents in OA

Versus

Padam Loachan,
Age 57 years,
S/o Shri Bhim Sen,
DSL. Cleaner under SSE/DSL/TKD,
Delhi. .Respondent in RA/Applicant
in OA

Order By Circulation

This Review Application has been filed by the Respondents in Original Application No.4472/2013 seeking review of the order of this Tribunal dated 06.02.2015. The said order being a short one reads as under:-

"The grievance of the Applicant is that even though his date of birth as per the

High School Certificate produced by him at the time of his appointment is 15.04.1956, the Respondents have arbitrarily recorded his date of birth in his service book as 11.06.1955. According to him, when he came to note that the Respondents have wrongly recorded his date of birth in the service book as 11.06.1955, he made a number of representations to them to correct his date of birth as per the school certificate produced by him. However, the Respondents have not agreed to his request and continued to maintain his date of birth as 11.06.1955.

2. I have considered the submissions made by the learned counsel for both the parties. It is seen that the Applicant's date of birth as recorded in his school certificate is 15.04.1956. However, the Respondents, any other documentary proof contrary to it, recorded his date of birth as 11.06.1955. According to the reply filed by the Respondents, they have not given any reason as to why they have recorded his date of birth as 11.06.1955 instead of 15.04.1956 as recorded in his school certificate which has been produced by him at the time of his appointment.

3. In view of above position, I allow this O.A. and direct the respondents to make necessary changes in the service book with regard to the date of birth of the applicant. In other words, his date of birth shall be recorded as 15.04.1956 and it shall be considered as such for all future purposes. There shall be no order as to costs".

2. The Review Applicants have sought review of the aforesaid order on the grounds that the Tribunal failed to appreciate that

the Respondents have taken specific ground that the application was barred by limitation and the same was not considered. In this regard, they have relied upon the judgments of the Hon'ble Supreme Court in the cases of ***Shri Arun Kumar Agarwal Vs. Nagreeka Exporters Pvt. Ltd. and Another*** 2002 (10) SCC 101, ***D.C.S. Negi Vs. U.O.I. and Others [SLP (Civil) No.7596/2011*** decided on 07.03.2011, ***Union of India Vs. M.K. Sarkar*** 2010 (2) SCC 58, ***State of Bihar Vs. Kmaleshwar Pradsad Singh*** and ***Ramesh Chand Sharma Vs. Udhamp Singh Kamal*** 2000 SCC (L&S) 53. They have also stated that this Tribunal did not appreciate that by which mode by which the alleged Legal Notice dated 21.05.2013 was sent by the Applicant, as he has not enclosed any proof in that regard. Moreover, it was not in the letter head of the learned Advocate who has also not mentioned his enrolment number with Bar Council in the Legal Notice. Further according to them, the Hon'ble Supreme Court in the catena of judgments has held that at the fag end of the superannuation of an employee, the request for correction of the date of birth cannot be entertained.

3. I have considered the aforesaid submissions of the Review Applicants. It is seen that the order of this Tribunal dated 06.02.2015 was passed after hearing both the parties. Review Application can be entertained under Rule 22 (3) (f) of the

Central Administrative Tribunals Act, 1985 which is based on Order 47 Rule 1 CPC. In the present case, I do not find any such eventualities mentioned in the aforesaid provision to review the order dated 06.02.2015. In my considered opinion, the Review Applicants are only trying to reargue the case which is not permissible in a Review Application.

4. In ***Parsion Devi and Others vs. Sumitri Devi and Others*** [1997 (8) SCC 715], the Apex Court has held as under:-

"Under Order 47 Rule 1 CPC a judgment may be open to review inter alia if there is a mistake or an error apparent on the face of the record. An error which is not self-evident and has to be detected by a process of reasoning, can hardly be said to be an error apparent on the face of the record justifying the Court to exercise its power of review under Order 47, Rule 1 CPC. In exercise of the jurisdiction under Order 47, Rule 1 CPC it is not permissible for an erroneous decision to be "reheard and corrected". There is a clear distinction between an erroneous decision and an error apparent on the face of the record. While the first can be corrected by the higher forum, the latter only can be corrected by exercise of the review jurisdiction. A review petition has a limited purpose and cannot be allowed to be "an appeal in disguise"."

5. In ***Ajit Kumar Rath Vs. State of Orissa*** (1999 (9) SCC 596), 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 of a person on 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 order was made. The power can also be exercised 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 analogous to those specified 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."

6. In view of the above position, this Review Application is dismissed. There shall be no order as to costs.

(G. George Paracken)
Member (J)

Rakesh