CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

R.A. No.44/2018 In
O.A. No.470/2013

New Delhi this the 13th day of March, 2018

HON'BLE MR. V. AJAY KUMAR, MEMBER (J)
HON'BLE MS. NITA CHOWDHURY, MEMBER (A)

PN 8274, Pankaj Aggarwal, LDC,
Aged 44 years (Removed from service)
Canteen Stores Department,
Rajdhani Enclave, opposite Mahendra Park,
Near Rani Bagh,
Flat No.83, Punjabi Bagh,
New Delhi-110018 - Applicant

Versus

1. Union of India
   Through the Secretary,
   Ministry of Defence,
   South Block,
   Govt. of India,
   New Delhi-110011

2. The General Manager, CSD,
   119, MK Road, Adelphy,
   Mumbai-400020

3. The Joint General Manager,
   CSD, Adelphy,
   119, MK Road, Mumbai-400020 - Respondents

ORDER BY CIRCULATION

Ms. Nita Chowdhury, Member (A)

The facts, in brief, are that while deciding the Original Application (OA) bearing No.470/2013, this Tribunal considered all the issues raised by the Review Applicant and disposed of the same on merits on 18.01.2018 (Annexure-R/1). The operative part of the said order reads as under:-

> "16. Therefore, we hold that both the Disciplinary Authority as well as Appellate Authority have recorded

> cogent reasons and examined the matter in the right perspective. We do not find any illegality, irregularity or any perversity in the impugned orders. As such, no interference is warranted by this Tribunal in the obtaining circumstances of the case.
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> 17. No other point, worth consideration, has either been urged or pressed by the learned counsel for the parties.
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> 18. In the light of the aforesaid reason, we find that there is no merit in the OA and it deserves to be and is hereby dismissed, as such. No costs."

2. Now the Review Applicant has filed the present RA bearing No.44/2018 for reviewing the indicated order, mainly on the grounds which have already been considered by this Tribunal while deciding the main OA.

3. The main ground pressed into service by the Review Applicant to review the order is that the order of the disciplinary authority dated 05.03.2012 and the appellate authority dated 08.11.2012 are not reasoned and speaking orders and not in consonance with the statutory provisions as provided under the rules. All the grounds were considered in detail when the judgment was passed in OA No. 470/2013 and judgments relied upon the applicant were also considered.

4. It is now well settled principle of law that the earlier order can only be reviewed if the case squarely falls within the legal ambit of review and not otherwise. Order 47 Rule 1 CPC read with Section 22(3)(f) of the Administrative Tribunals Act, 1985 regulates the provisions of review of the orders. According to the said provision, a review will lie only when there is discovery of any new and important matter or evidence which, after the exercise of due diligence was not within his knowledge or could not be produced by the review applicant seeking the review at the time

when the order was passed **or *made on account of some mistake or error apparent on the face of the record.*** It is now well settled principle of law that the scope for review is rather limited and it is not permissible for the forum hearing the review application to act as an Appellate Authority in respect of the original order by a fresh and re-hearing of the matter to facilitate a change of opinion on merits. The reliance in this regard can be placed on the judgments of the Hon'ble Supreme Court in cases of ***Parsion Devi and Others vs. Sumitri Devi and Others (1997) 8 SCC 715, Ajit Kumar Rath Vs. State of Orissa (1999) 9 SCC 596, Union of India Vs. Tarit Ranjan Das (2003) 11 SCC 658 and Gopal Singh Vs. State Cadre Forest Officers' Association & Others (2007) 9 SCC 369.***

5. An identical question came up to be decided by Hon'ble Apex Court in case ***State of West Bengal and Others Vs. Kamal Sengupta and Another (2008) 8 SCC 612***. Having interpreted the scope of review and considering the catena of previous judgments mentioned therein, the following principles were culled out to review the orders:-

> "(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.
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> (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".

6. Meaning thereby, the original order can only be reviewed if case strictly falls within the domain of Order 47 Rule 1 CPC read with Section 22(3)(f) of the Administrative Tribunals Act, 1985 and not otherwise. In the instant RA, the review applicant has not pointed out any error apparent on the face of record warranting a review of the order dated 18.01.2018 (Annexure R/1). Moreover, the issues now sought to be urged, were subject matter of the OA and have already been adjudicated upon by the Tribunal.

7. In the light of the aforesaid reasons, as there is no apparent error on the face of record, hence no ground is made out to entertain the present Review Application, which is accordingly dismissed in circulation. No costs.

(NITA CHOWDHURY)
MEMBER (A)

(V. AJAY KUMAR)
MEMBER (J)

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