Central Administrative Tribunal
Principal Bench, New Delhi

R.A.No.70/2013 in O.A. No.701/2012

Tuesday, this the 29th day of September, 2015

Hon'ble Mr. A.K. Bhardwaj, Member (J)

Nina Lath Gupta, IRS (Retd.)
Now Managing Director
National Films Development Corporation
Mumbai 400 018

..Applicant

(Mr. Harshvardhan Jha and Mr. Ram Ekbal Roy, Advocates)

Versus

1. Union of India through its Secretary
Department of Revenue, Ministry of Finance
North Block, Delhi

2. The Chairman
Central Board of Direct Taxes
Department of Revenue, Ministry of Finance
North Block, New Delhi

3. The Principal Chief Controller of Accounts
Central Board of Direct Taxes
9th Floor, Lok Nayak Bhawan, Khan Market
New Delhi

..Respondents

(Mr. Satyender Kumar, Advocate for Mr. R N Singh, Advocate)

O R D E R (ORAL)

Since the applicant could be deemed retired from service only from the date of her absorption in National Films Development Corporation (NFDC), i.e., 11.9.2012, she could not have claimed for settlement of her terminal benefits before said date and after her such absorption the benefits were released on the dates mentioned in paragraph 1 of the Order. The Order under review is self-contained and reasoned.

2. It is *stare decisis* that after disposing of an issue by final order, the Courts/Tribunals become *functuous officio*. The only exception to the principle is Review Application, which may be entertained on limited

grounds, viz. there is an error apparent on the face of record; production of some such material/documents not produced at the time of disposal of the proceedings despite all care and caution, or there is some other sufficient reason. In the present Review Application, I do not find any of the aforementioned yardsticks satisfied. An application for review cannot be heard as an appeal in disguise.

3. In **Union of India** v. **Tarit Ranjan Das,** 2004 SCC (L&S) 160, the Hon'ble Supreme Court ruled thus:

> "13. The Tribunal passed the impugned order by reviewing the earlier order. A bare reading of the two orders shows that the order in review application was in complete variation and disregard of the earlier order and the strong as well as sound reasons contained therein whereby the original application was rejected. 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 order and rehearing of the matter to facilitate a change of opinion on merits. The Tribunal seems to have transgressed its jurisdiction in dealing with the review petition as if it was hearing an original application. This aspect has also not been noticed by the High Court."

4. Besides, the applicant had challenged the Order under review before Hon'ble High Court of Delhi in Writ Petition (C) No.461/2013, which was dismissed as withdrawn with the observation that if the writ petitioner was to seek review of the Order passed in O.A. No.701/2012, the same should be decided as per the review jurisdiction. The Order dated 28.1.2013 passed by the Hon'ble High Court (ibid) reads thus:-

> "CM No.895/2013
>
> Allowed.
>
> CM No.896/2013

Allowed.

W.P. (C) No.461/2013

1. After addressing and realizing that the writ petitioner was getting caught in a web of certain factual averments and evidence relatable thereto, counsel seeks leave to withdraw the writ petition stating that the writ petitioner would like to seek a review before the Central Administrative Tribunal.

2. Dismissing the writ petition as withdrawn, it is observed that if the writ petitioner were to seek review before the Central Administrative Tribunal the same would be decided as per its review jurisdiction by the Tribunal.

3. No costs."

5. In view of the aforementioned, the Review Application is found devoid of merit and is accordingly dismissed. No costs.

(A.K. Bhardwaj)
Member (J)

September 29, 2015
/sunil/