

**Central Administrative Tribunal
Principal Bench
New Delhi**

RA No.77/2016 in
OA No.3194/2015
MA No.1217/2016

New Delhi this the 8th day of July, 2016.

**HON'BLE MS. CHAMELI MAJUMDAR, MEMBER (J)
HON'BLE MR. K.N. SHRIVASTAVA, MEMBER (A)**

Harish Sharma, S/o late Shri P.L. Sharma,
Aged 45 years, working as Additional Internal
Auditor & Financial Advisor, CBSE (on deputation)
Shiksha Kendra, 2 Community Centre,
Preet Vihar, Delhi-92.

Parent Office –Controller of Accounts under CGA,
Department of Science and Technology,
Technology Bhawan, New Mehrauli Road,
New Delhi,
R/o D-4, Main Market, Shakar Pur,
Delhi-92.

-Applicant

-Versus-

1. Union of India through Secretary,
Secretary, Ministry of Finance,
Department of Expenditure,
North Block,
New Delhi.
2. Controller General of Accounts,
Ministry of Finance,
Department of Expenditure,
Lok Nayak Bhawan,
New Delhi.
3. Controller of Accounts,
Department of Science & Technology,
Technology Bhawan,
New Mehrauli Road,
New Delhi.
4. Secretary,
Central Board of Secondary Education,
Shiksha Kendra, 2 Community Centre,
Preet Vihar, Delhi-92.

-Respondents

O R D E R (By Circulation)

Mr. K.N. Shrivastava, Member (A):

This Review Application (RA) has been filed under Section 22 (3) (f) of the Administrative Tribunals Act, 1985, seeking review of this Tribunal's order in OA-3194/2015 dated 15.03.2016.

2. The Hon'ble Apex Court in the case of **State of West Bengal and Others v. Kamal Sengupta**, [2008 (3) AISLJ 209] has held that the Tribunal can exercise powers of civil court in relation to matters enumerated in clauses (a) to (e) of sub section (3) of Section 22 of the Administrative Tribunals Act, 1985, including the power of reviewing its decision. At para-28 of the said judgment the principles culled out by the Hon'ble Apex Court for review of order are as under:

"(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.

- (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.”

3. The Hon’ble Supreme Court has further laid down clear-cut guidelines in the case of **Kamlesh Verma Vs. Mayawati** [(2014) 1 SCC (L&S) 96, as to 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 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 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.”

4. In the case of **Meera Bhanja (Smt.) Vs. Nirmala Kumari Choudhary (Smt.)** (1991)1 SCC 170, the Supreme Court has held:

“The review proceedings are not by way of an appeal and have to be strictly confined to the scope and ambit of order 47 Rule 1 CPC. The review petition has to be entertained only on the ground of error apparent on the face of record and not on any other ground. An error apparent on the face of record must be such an error which must strike one on mere looking at the record and would not require any long-drawn process of reasoning on points where there may conceivably be two options. The limitation of powers of courts under Order 47 Rule 1 CPC is similar to jurisdiction available to the High Court while seeking review of the orders under Article 226.”

5. A plain reading of the RA gives an impression as though the applicant has filed the RA in the nature of an appeal against the order of the Tribunal which he has sought to be reviewed. The applicant has failed to point out any error apparent on the face of

the record in the order of the Tribunal nor has pointed out any document that has not been considered by the Tribunal while passing the said order albeit the said document was available on the record.

6. In view of the observations in the foregoing paragraph as well as also keeping in mind the principles laid down by the Hon'ble Supreme Court for review of the orders, we do not find any merit in the RA. The RA is accordingly dismissed in circulation. No costs.

(K.N. Shrivastava)
Member (A)

(Chameli Majumdar)
Member (J)

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