Central Administrative Tribunal
Principal Bench, New Delhi.

RA-81/2017 in
OA-1136/2014

New Delhi this the 24th day of March, 2017.

Hon'ble Mr. Shekhar Agarwal, Member (A)
Hon'ble Mr. Raj Vir Sharma, Member (J)

Sh. Pradeep Kumar Gupta,
Flat No. 44-C,
Pocket AG-1,
Vikaspuri,
New Delhi-110018. ..... Review Applicant

Versus

1. Union of India through
Secretary,
Ministry of Rural Development,
Government of India,
Krishi Bhawan,
New Delhi-110001.

2. Director General,
Council for Advancement of People's
Action and Rural Technology(CAPART),
India Habitat Centre,
Zone-VA, (Core-C), 2nd Floor,
Lodhi Road, New Delhi-3.

3. Director,
Central Vigilance Commission (CVC),
Satarkta Bhawan,
GPO Complex,
Block-A, INA,New Delhi. ..... Respondents

O R D E R (By Circulation)

Mr. Shekhar Agarwal, Member (A)

This Review Application has been filed for review of our order dated 08.02.2017 by which the O.A. was dismissed. Each of the grounds taken by the review applicant is discussed as hereunder:-

(i) Review applicant has submitted that this Tribunal has committed an error by coming to the conclusion mentioned in para-6.2 of the judgment as follows:-

> ".....Nevertheless, the charge against the applicant has been proved by the statement of the complainant Sh. Sukhamay Paul, who very clearly stated that the applicant had demanded as well as accepted a bribe of Rs. 50,000/- for releasing the balance amount out of the sanctioned amount for organizing the Gram Shree Mela. The respondents further submitted that other witnesses had also deposed against the applicant. Hence, neither this was a case of no evidence nor it can be held that the enquiry got vitiated by non production of CBI Inspectors as witnesses."

On going through our judgment, we find that what the applicant is citing as our conclusion was actually the submissions of the respondents recorded by us.

(ii) Next, the review applicant has stated that an error has been committed by coming to the conclusion that the charge against the applicant was proved when neither the number of currency nor the notes were available.

Clearly, the review applicant is questioning the findings of this Tribunal rather than pointing out any error apparent on the face of the record.

(iii) Next, the review applicant has questioned that it was incorrect to say that the applicant had kept the file himself with ulterior motive. He has attached extracts of the note sheets of the relevant file to prove that this was not the case.

It is trite law that in judicial review the Courts are not required to reappraise the evidence. The Disciplinary Authority had relied on the statements of PW-3, PW-4 and PW-5 to come to the conclusion that the applicant had only demanded and accepted bribe but had also kept the file with him during the period 06.10.1991 to 13.04.2010 with an ulterior motive. When we observed this in our judgment, we were dealing with the contention of the applicant that this was a case of no evidence. To come to the conclusion that it was not a case of no evidence, we had referred to the deposition of the various witnesses. There is no error in the same.

(iv) Lastly, the review applicant has also questioned our finding that once detailed reasons had been given in the disagreement note, it was not necessary to reiterate them in the punishment order passed by the Disciplinary Authority. Similarly, when Appellate Authority was agreeing with Disciplinary Authority, no detailed reasons were required to be recorded. The applicant has submitted that this was against the requirement of law.

Even if applicant's submission is accepted, this is not an error apparent on the face of the record. Rather, he is questioning the conclusions we have arrived at. This is clearly beyond the scope of review application. If the applicant was aggrieved by these findings, appropriate course for him was to approach higher judicial forum.

2. While considering the scope of review, Hon'ble Supreme Court in the case of **Aribam Tuleshwar Sharma** Vs. **Aribam Pishak Sharma,** (1979) 4 SCC 389 referred to an earlier decision in the case of **Shivdeo singh** Vs. **State of Punjab,** AIR 1963 SC 1909 and observed as under:-

> "It is true as observed by this Court in **Shivdeo Singh v. State of Punjab,** AIR 1963 SC 1909, there is nothing in Article 226 of the Constitution to preclude a High Court from exercising the power of review which is inherent in every Court of plenary jurisdiction to prevent miscarriage of justice or to correct grave and palpable errors committed by it. But, there are definitive limits to the exercise of the power of review. The power of review may be exercised on the discovery of new and important matter or evidence which, after the exercise of due diligence was not within the knowledge of the person seeking the review or could not be produced by him at the time when the order was made; it may be exercised where some mistake or error apparent on the face of the record is found; it may also be exercised on any analogous ground. But, it may not be exercised on the ground that the decision was erroneous on merits. That would be the province of a Court of appeal. A power of review is not to be confused with appellate power which may enable an Appellate Court to correct all matters or errors committed by the Subordinate Court."

2.1 Similarly in the case of **Ajit Kumar Rath** Vs. **State of Orissa and Others,** AIR 2000 SC 85 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 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 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."**
>
> [Emphasis added]

2.2 In the case of **Gopal Singh** Vs. **State Cadre Forest Officers' Assn. and Others** [2007 (9) SCC 369], the Apex Court held that after rejecting the original application filed by the appellant, there was no justification for the Tribunal to review its order and allow the revision of the appellant. Some of the observations made in that judgment are extracted below:-

> "The learned counsel for the State also pointed out that there was no necessity whatsoever on the part of the Tribunal to review its own judgment. Even after the microscopic examination of the judgment of the Tribunal we could not find a single reason in the whole judgment as to how the review was justified and for what reasons. No apparent error on the face of the record was pointed, nor was it discussed. Thereby the Tribunal sat as an appellate authority over its own judgment. This was completely impermissible and we agree with the High Court (Justice Sinha) that the Tribunal has travelled out of its jurisdiction to write a second order in the

name of reviewing its own judgment. In fact the learned counsel for the appellant did not address us on this very vital aspect."

3. On the basis of the above, we come to the conclusion that this review application is devoid of merit and is dismissed in circulation.

(Raj Vir Sharma)
Member (J)

(Shekhar Agarwal)
Member (A)

/Vinita/