

Central Administrative Tribunal
Principal Bench
New Delhi

R.A.No.97/2017
in
O.A.No.4299/2013

Order Reserved on: 20.04.2017
Order pronounced on 12.05.2017

Hon'ble Shri V. Ajay Kumar, Member (J)
Hon'ble Shri P. K. Basu, Member (A)

Sh. Nitish Sharma
S/o Late Shri Ram Phal Sharma
R/o D-109/A, Gali No.1
Burari Road, Saroop Nagar
Delhi – 110 042. Applicant

(Applicant in person)

Versus

1. Union of India
Through its Secretary
Ministry of Corporate Affairs
5th Floor, A-Wing, Shastri Bhawan
Dr. Rajender Prashad Road
New Delhi – 110 001.
2. The Regional Director (Northern Region)
Ministry of Corporate Affairs
B-2 Wing, 2nd Floor, Paryavaran Bhawan
CGO Complex, New Delhi – 110 003.
3. The Registrar of Companies
NCT of Delhi & Haryana
4th Floor, IFCI Tower, 61, Nehru Place
New Delhi – 110 049. Respondent(s)

(By Advocate: None)

ORDER

By V. Ajay Kumar, Member (J):

Heard the applicant in person.

2. The applicant, a Junior Stenographer in the Respondents-Ministry of Corporate Affairs, filed OA No.4299/2013, questioning an order dated 27.11.2006. After hearing both sides, the said OA was dismissed on the ground of limitation by Order dated 12.01.2017. Seeking review of the said order, the instant RA is filed.

3. The law on review is well settled. The Hon'ble Apex Court in **Ajit Kumar Rath v. State of Orissa and Others** - (1999) 9 SCC 596 held that "power of review available to the Tribunal under Section 22(3)(f) is not absolute and is the same as given to a Court under S. 114 read with Order 47 Rule 1 of CPC.". It has further held that "the scope of review is limited to correction of a patent error of law or fact which stares in the face, without any elaborate argument being needed to establish it" and that "exercise of power of review on a ground other than those set out in Order 47 Rule 1 amounts to abuse of liberty granted to the Tribunal and hence review cannot be claimed or asked merely for a fresh hearing or arguments or corrections of an erroneous view taken earlier."

4. In **Union of India v. Tarit Ranjan Das**, - 2004 SCC (L&S) 160 – the Hon'ble Apex Court held that the scope of 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.

5. In **State of West Bengal and Others v. Kamal Sengupta and Another** – (2008) 8 SCC 612 – the Hon'ble Apex Court after referring to **Ajit Kumar Rath's** case (supra) held that “an order or decision or judgement cannot be corrected merely because it is erroneous in law or on the ground a different view could have been taken by the Court/Tribunal on a point of fact or law and while exercising the power of review the Court/Tribunal concerned cannot sit in an appeal over its judgment/decision.”

6. The Hon'ble Supreme Court in **Kamlesh Verma v. Mayawati and Others** (2013) 8 SCC 320, after discussing various case laws on the jurisdiction and scope of review, summarised the principles of review as under:

“20. Thus, in view of the above, the following grounds of review are maintainable as stipulated by the statute:

20.1. When the review will be maintainable:-

- (i) Discovery of new and important matter or evidence which, after the exercise of due diligence, was not within knowledge of the petitioner or could not be produced by him;
- (ii) Mistake or error apparent on the face of the record;
- (iii) Any other sufficient reason.

The words “any other sufficient reason” has been interpreted in *Chhajju Ram v. Neki*, [AIR 1922 PC 112] and approved by this Court in *Moran Mar Basselios Catholicos v. Most Rev. Mar Poulose Athanasius & Ors.*, [(1955) 1 SCR 520], to mean “a reason sufficient on grounds at least analogous to those specified in the rule”. The same principles have been reiterated in Union of India

v. Sandur Manganese & Iron Ores Ltd. & Ors., [JT 2013 (8) SC 275].

20.2. 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 the 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 the 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."

7. The applicant failed to show any error apparent on the face of the record or any other valid ground to invoke the review jurisdiction of this Tribunal. He only tried to reargue the OA, on merits, by filing the present RA, which is not permissible.

8. Accordingly, the RA is dismissed. No costs.

(P. K. Basu)
Member (A)

(V. Ajay Kumar)
Member (J)

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