

**Central Administrative Tribunal
Principal Bench, New Delhi.**

**RA-102/2015 in
OA-3930/2013
MA-1539/2015**

Reserved on : 11.05.2016.

Pronounced on : 13.05.2016.

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

Sh. Hans Raj Bashal, 79 years
S/o late Sh. K.R. Bashal,
Ex-Director, Department of Telecom,
R/o A-57, Panchsheel Enclave,
New Delhi-110017.

.... Review Applicant

(through Sh. D.S. Chaudhary, Advocate)

Versus

Union of India through

1. The Secretary,
Department of Telecom,
Ministry of Communication & I.T.,
Sanchar Bhawan, 20, Ashoka Road,
New Delhi-110001.
2. Asstt. Director General (Pensions),
Department of Telecom,
Sanchar Bhawan, 20, Ashoka Road,
New Delhi-110001.

.... Respondents

(through Sh. R.V. Sinha, Advocate)

O R D E R

Mr. Shekhar Agarwal, Member (A)

This Review Application has been filed by OA applicant for review of our order dated 13.01.2015 by which OA-3930/2015 was dismissed both on merits as well as on the ground of limitation.

2. The respondents in OA as well as in RA have filed reply opposing the review application. They have stated that the applicant was simply trying to re-argue the matter, which was beyond the scope of review application.

3. Learned counsel for the review applicant argued that as far as limitation was concerned, this Tribunal had erred in coming to the conclusion that the OA was barred by limitation. He relied on the judgments of Hon'ble Supreme Court in the case of **M.R. Gupta Vs. UOI & Ors.**, (1995) 5 SCC 628 and **Madras Port Trust Vs. Hymanshu International by its Proprietor V. Venkatadri (Dead) by LRs**, (1979) 4 SCC 176 in support of his case to say that the cause of action in this case was recurring and limitation should not have applied, instead substantive justice should have been rendered by going into the merits of the case.

4. On merits, learned counsel argued that by Circular dated 11.07.1990 (cited in the judgment itself), Department of Telecommunications had provided that two advance increments were to be granted to those junior engineers and other equivalent officers "who acquire or have acquired a degree in engineering". Learned counsel further argued that it is not disputed that the applicant had acquired Engineering Degree in the year 1966. Therefore, he should have been regarded as eligible for grant of two advance increments under this circular. However, this Tribunal had erroneously come to the conclusion that the applicant was not eligible for the same.

5. We have considered the submissions made by learned counsel. In our opinion, the review applicant is questioning the findings arrived at by this Tribunal rather than pointing out any error apparent on the face of the record in the judgment. If he was aggrieved by these findings, he should have approached appropriate judicial forum. Remedy in such cases does not lie in filing a review application as it would be beyond the scope of review application for us to reconsider the matter and sit in appeal over our own judgment.

6. While considering the scope of review, Hon'ble Supreme Court in the case of **Aribam Tuleswar 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."

6.1 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]

6.2 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 traveled 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.”

7. In view of the above, we find that there is no merit in this review application and the same is dismissed. No costs.

(Raj Vir Sharma)
Member (J)

(Shekhar Agarwal)
Member (A)

/Vinita/