CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

R.A. No. 301/2015
O.A. No. 3999/2014
M.A. No. 3992/2015
M.A. No. 3993/2015

New Delhi, this the 11th day of December, 2015

HON'BLE MR. JUSTICE SYED RAFAT ALAM, CHAIRMAN
HON'BLE MR. P.K. BASU, MEMBER (A)

Sovon Kr. Mukherjee & 134 Others .. Review Applicants
(As per memo of the O.A.)

Versus

Union of India & Ors. .. Respondents
(As per memo of the O.A.)

ORDER (By Circulation)

By Hon'ble Mr. P.K. Basu

This Review Application has been filed by the applicants against the order dated 15.09.2015 passed in O.A. No.527/2015 and batch including O.A. No.3999/2014.

2. The grounds for filing this Review Application, in brief, are as follows:

(i) that we have wrongly interpreted the Hon'ble Supreme Court's order dated 07.07.2014.

(ii) that we have wrongly applied the judgment of the Hon'ble Supreme Court in **Union of India Vs. Arun Jyoti Kundu**, (2007) 7 SCC 472 and also the ground of financial burden on the exchequer.

(iii) that the legal issues raised by the applicants though referred to in the judgment have not been dealt with.

(iv) that this Tribunal is bound by the orders of Ernakulam Bench of the Tribunal and the Patna High Court, which have not been considered by the Tribunal.

3. We have considered the law settled by the Hon'ble Supreme Court regarding scope of review application before the Tribunal, specifically in **Kamlesh Verma Vs. Mayawati and Others,** (2013) 8 SCC 320, wherein the Hon'ble Supreme Court has laid down the following contours with regard to maintainability, or otherwise, of review petition:

> "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" have been interpreted in Chhajju Ram v. Neki (AIR 1922 PC 122) and approved by this Court in Moran Mar Basselios Catholicos v. Most Rev. Mar Poulose Athanasius (AIR 1954 SC 526) 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 vs. Sandur Manganese & Iron Ores Ltd. (2013 (8) SCC 337).

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 negatived."

Further, in **State of West Bengal and others Vs. Kamal Sengupta and another**, (2008) 8 SCC 612, the Hon'ble Supreme court

scanned various earlier judgments and summarized the principles laid down therein which read thus:

> "35. The principles which can be culled out from the above-noted judgments are:
>
> (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 CPC.
>
> (ii) The Tribunal can review its decision on either of the grounds enumerated in Order 47 Rule 1 CPC.
>
> (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."

4. It would be clear from the order dated 15.09.2015 that every legal issue raised by the applicant had been considered and only thereafter, we had passed the order and specific discussion has been made on the judgment of the Hon'ble Supreme Court dated 07.07.2014 in the Special Leave to Appeal against the decision of the Patna High Court.

5. In our opinion, what the applicant has stated in the RA is nothing new. These are the same arguments which were placed before us at the stage of the O.A. and having considered all the relevant judgments cited by both the sides, aforesaid orders had been passed. The exact legal issue, which has not been dealt with, has not been mentioned by the applicant. There is no error apparent on the face of the record. While the applicants are at liberty not to agree with our reasoning and conclusion, in the light of the judgment of the Hon'ble Supreme Court in **Kamal Sengupta** (supra) and **Kamlesh Verma** (supra) above, clearly a Review Application cannot be entertained. The Review Application is, therefore, dismissed.

6. In view of final orders passed in the Review Application, both the M.As. also stands disposed of.

(P.K. Basu)
Member (A)

(Syed Rafat Alam)
Chairman

/Jyoti/