

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

**RA-207/2018
in
OA-4645/2015**

New Delhi this the 29th day of October, 2018.

Hon'ble Ms. Praveen Mahajan, Member (A)

Sh. Ashok Kumar Dabas,
Conductor, B.No.222067, NLD,
S/o Sh. Rattan Singh,
R/o Village Madanur Dabas,
R.O. Ranikhera,
New Delhi-110081.

.... Review Applicant

Versus

Delhi Transport Corporation,
I.P. Estate,
New Delhi-110002.

ORDER (By Circulation)

This review application has been filed for review of my order dated 24.09.2018 by which OA-4645/2015 was dismissed.

2. Existence of error apparent on the face of record is *sine qua non* for entertainment of the review application.

3. I have carefully gone through the review application and find that all the grounds taken in the RA have already been taken by the review applicant in the main OA and have been considered while deciding the same. It appears that the review applicant in the garb of the present review is trying to re-argue the matter afresh, which is

not the scope of review. It is well settled principle of law that a review application is not an appeal in disguise or a fresh hearing and for that the proper remedy is to file an appeal before the appropriate forum/superior court. The review applicant has failed to point out any such error apparent on the face of the order under review. He cannot be allowed to re-agitate the grounds already considered in the main OA. It is a settled position that there is difference between review and appeal as has been held by the Hon'ble Apex Court in **West Bengal & Ors Vs. Kamalsengupta & Anr.** [2008(8) SCC 612], which reads as under:-

"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 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."

4. It is apparent from the above that the scope of the review lies in a very narrow compass. There is a difference between appeal and review. A review is not disguised appeal. I have no hesitation in observing here that this review application in fact amounts to re-opening and re-hearing the case afresh, which lies beyond the pale of review jurisdiction.

5. Having considered the submissions of the review applicant, and in view of above discussion, I find no merit in the instant Review application and the same is dismissed in circulation.

(Praveen Mahajan)
Member (A)

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