

**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH: NEW DELHI**

R.A. No. 311/2015
O.A No. 4521/2013
M.A. No. 4040/2015

Reserved on: 27.07.2018
Pronounced on: 05.09.2018

HON'BLE MR. V. AJAY KUMAR, MEMBER (J)
HON'BLE MR. A.K. BISHNOI, MEMBER (A)

Praveen Dhull, Age 26 years,
S/o Sh. Rajbir Singh Dhull,
R/o B-15/114, Type-II, Police Line,
Pitampura, Delhi-34.

.. Review Applicant

(By Advocate : Shri Sachin Chauhan)

Versus

1. The Chairman,
DMRC,
DO Building.
2. The General Manager (Operations),
4th Floor, Metro Bhawan, Fire Brigade Lane,
Barakhamba Road, New Delhi.
3. The DGM (Operations)-III,
DO Building, Shastri Park,
New Delhi.

.. Respondents

(By Advocate : Shri V.S.R. Krishna)

ORDER

By Mr. V. Ajay Kumar, Member (J)

O.A. No. 4521/2013 filed by the applicant was dismissed on 29.06.2015. He filed the said O.A. questioning the Disciplinary and

Appellate orders, whereunder he was imposed with the penalty of removal from service.

2. Seeking review of the said order in the O.A., the applicant filed the instant Review Application.

3. Heard Shri Sachin Chauhan, the learned counsel for the review applicant and Shri V.S.R. Krishna, the learned counsel appearing for the respondents, and perused the pleadings on record.

4. In the circumstances and for the reasons mentioned therein and in the interest of justice, the delay in filing the R.A. is condoned and, accordingly, MA No. 4040/2015 is allowed.

5. Shri Sachin Chauhan, the learned counsel appearing for the review applicant, mainly submits that the applicant raised number of grounds in support of his case, but the Tribunal, while dismissing the O.A., failed to consider all those grounds. After considering some grounds, the Tribunal erroneously dismissed the O.A. Hence, not considering and in not giving findings on all the grounds raised by the applicant is an error apparent on the face of the record and, hence, the order in the O.A. is liable to be reviewed and recalled.

6. The learned counsel placed reliance on a judgment of the Hon'ble High Court of Delhi in WP(C) No. 7192/2010 - **Bacha Ram** vs. **Union of India and Ors.**, dated 24.11.2010 (Annexure RA-2). In **Bacha Ram** (supra), the Hon'ble High Court, noticing that the ground of competency to act as a disciplinary authority was though raised but not considered, allowed the writ petition.

7. The learned counsel for the review applicant submitted that a brief note consisting of 13 points was submitted to the Hon'ble Tribunal but the Tribunal failed to even acknowledge the said brief note. However, the review applicant failed to specifically state non-consideration of which ground raised by him was the reason for dismissal of the O.A.

8. On the other hand, the learned counsel appearing for the respondents would submit that this Tribunal, while dismissing the O.A., passed a detailed and reasoned order considering all the facts and law and it is not necessary to mention each and every ground raised by the parties, once the Court taken a view on the totality of facts and law.

9. It is now well settled principle of law that the earlier order can only be reviewed if the case squarely falls within the legal ambit of review and not otherwise. Order 47 Rule 1 CPC read with Section 22(3)(f) of the Administrative Tribunals Act, 1985 regulates the

provisions of review of the orders. According to the said provision, a review will lie only when there is discovery of any new and important matter or evidence which, after the exercise of due diligence was not within his knowledge or could not be produced by the review applicant seeking the review at the time when the order was passed or made on account of some mistake or error apparent on the face of the record. It is also well settled principle of law that the scope for 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 and re-hearing of the matter to facilitate a change of opinion on merits. The reliance in this regard can be placed on the judgments of the Hon'ble Supreme Court in cases of ***Parsion Devi vs. Sumitri Devi (1997) 8 SCC 715***, ***Ajit Kumar Rath Vs. State of Orissa (1999) 9 SCC 596***, ***Union of India Vs. Tarit Ranjan Das (2003) 11 SCC 658*** and ***Gopal Singh Vs. State Cadre Forest Officers' Association & Others (2007) 9 SCC 369***.

10. An identical question came up to be decided by Hon'ble Apex Court in case ***State of West Bengal and Others Vs. Kamal Sengupta and Another (2008) 8 SCC 612***. Having interpreted the scope of review and considering the catena of previous judgments mentioned therein, the following principles were culled out to review the orders:-

“(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”.

11. Meaning thereby, the original order can only be reviewed if case strictly falls within the domain of Order 47 Rule 1 CPC read with Section 22(3)(f) of the Administrative Tribunals Act, 1985 and not otherwise. In the instant R.A., the review applicant has not pointed out any error apparent on the face of record warranting a review of the order dated 29.06.2015 (Annexure RA-1). On the other hand, the applicant is trying to re-argue the O.A., on merits,

through the medium of this Review Application, which is impermissible.

12. In the circumstances and for the aforesaid reasons, we do not find any valid ground to invoke the review jurisdiction of this Tribunal and, accordingly, the review application is dismissed. No costs.

(A.K. BISHNOI)
MEMBER (A)

(V. AJAY KUMAR)
MEMBER (J)

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