

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

R.A.No.122/2017 in O.A. No.4473/2013

Wednesday, this the 25<sup>th</sup> day of April 2018

**Hon'ble Mr. Justice Dinesh Gupta, Chairman  
Hon'ble Mr. K.N. Shrivastava, Member (A)**

S M Matloob

..Applicant

(Applicant in person)

Versus

Director General, ICCR

..Respondent

**O R D E R (ORAL)**

**Mr. K.N. Shrivastava:**

The applicant, through the medium of this R.A., has prayed for the following relief:-

“2. Kindly direct the respondent to pay all consequential reliefs including promotion, allowances and other benefits along with 18% annual interest.”

2. The factual matrix of the case, as noticed from the records, is as under:-

2.1 The applicant was working in the Arabic Section of Indian Council for Cultural Relations (ICCR) – respondent organization. He was transferred to the Lucknow Centre on 20.06.2004. Since he did not obey the transfer order, a memorandum of charge came to be issued to him vide O.M. 16.07.2004. It was alleged therein that the applicant has disobeyed the transfer order and willfully absented himself from duty from 24.05.2004 to

25.06.2004. Following the issuance of memorandum of charge, the disciplinary proceedings were started against him, which culminated into imposition of penalty of compulsory retirement on the applicant vide order dated 19.08.2005 under Rule 15 (4) read with Rule 11 of CCS (CCA) Rules, 1965.

2.2 The applicant challenged his compulsory retirement order in O.A. No.4473/2013, which was allowed by this Tribunal vide order dated 09.05.2014 in the following terms:-

- “(i) That the impugned order dated 19.8.2005 is quashed for the aforesaid reasons;
- (ii) Applying the principle of ‘no work no pay’, the applicant will not get any payment for the period that he has been out of job;
- (iii) If the applicant has received anything consequent to his compulsory retirement, the same shall be refunded or adjusted as per rules;
- (iv) The above orders are to be implemented within a period of three months from the date of receipt of a certified copy of this order.”

2.3 The applicant was aggrieved of the *ibid* order of the Tribunal dated 09.05.2014 to the extent that the Tribunal had not granted him the back-wages following the principle of ‘no work no pay’. He challenged the order of the Tribunal before the Hon’ble High Court of Delhi in W.P. (C) No.5226/2014, which was disposed of vide order dated 21.05.2015 granting him 50% of the back-wages.

2.4 No satisfied with the relief granted by the Hon’ble High Court, the applicant challenged the *ibid* order before the Hon’ble Supreme Court in

Civil Appeal No.920/2017, who, vide order dated 24.01.2017, directed that the applicant shall be paid full back-wages for the entire period. The order of the Hon'ble Apex Court has since been implemented by the respondent.

2.5 The applicant, however, through this R.A., has claimed that he be granted consequential reliefs, viz. promotion, allowances and other allowances with interest following his retirement ordered by the Court. Incidentally, the applicant attained the age of superannuation on 31.05.2015, he has been paid 50% of the back-wages amounting to ₹6,63,273/- in compliance of *ibid* order of Hon'ble High Court and has also been paid the remaining 50% of the back-wages in compliance of *ibid* order of Hon'ble Supreme Court. Thus the entire amount of ₹12,96,272/- towards back-wages has been paid to the applicant.

3. The respondent, in its reply, has stated that the R.A. is barred by limitation of time, as the order of the Tribunal dated 09.05.2014 has attained finality after the disposal of Civil Appeal by the Hon'ble Apex Court on 24.01.2017. It is further stated that the applicant has not pointed out any apparent error on the face of the Tribunal's order and there is no cogent reason for seeking its review.

4. Arguments of applicant, as party in person, and that of Mr. M K Bhardwaj, learned counsel for respondent are heard.

5. In terms of Tribunal's order dated 09.05.2014, the applicant was reinstated in service and in terms of the judgments of Hon'ble High Court and Hon'ble Supreme Court, full back-wages have been paid to him. The

*sine qua non* for seeking review of an order of the Tribunal is existence of any apparent error on the face of the record. The applicant has not pointed out any such apparent error in the Tribunal's order under review.

6. On the power of the Tribunal to review its own orders, the Hon'ble Supreme Court has laid down clear guidelines in its judgment in the case of **State of West Bengal & others Vs. Kamal Sengupta and another**, [2008 (3) AISLJ 209] stating therein that "the Tribunal can exercise powers of a Civil Court in relation to matter enumerated in clauses (a) to (i) of sub-section (3) of Section (22) of Administrative Tribunal Act including the power of reviewing its decision." At paragraph (28) of the judgment, the principles culled out by the Supreme Court are as under:-

"(i) The power of 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 specific grounds

(iv) An error which is not self-evident and which can be discovered by a long process of reasoning, cannot be treated as a error apparent in the fact of record justifying exercise of power under Section 22(2) (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 a larger bench of the Tribunal or of a superior court

(vii) A decision/order cannot be reviewed under Section 22(3)(f).

(viii) 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.

(ix) 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.”

7. For the reasons discussed in the foregoing paragraphs, we do not find any merit in the R.A. Accordingly, the R.A. is dismissed. No costs.

**( K.N. Shrivastava )**  
**Member (A)**

**( Justice Dinesh Gupta )**  
**Chairman**

**April 25, 2018**  
**/sunil/**