

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH
JABALPUR

REVIEW APPLICATION NO.200/00043/2015
(in OA No.660/2012)

Jabalpur, this Monday, the 14th day of May, 2018

HON'BLE MR.NAVIN TANDON, ADMINISTRATIVE MEMBER
HON'BLE MR.RAMESH SINGH THAKUR, JUDICIAL MEMBER

Vijay Kumar Kashyap S/o Late Shri Ganeshram Kashyap Aged about 60 years
R/o Jindal Apartments Govind Garden Flat No.9 Raisen Road,
Bhopal (M.P.)
(By Advocate: **Shri Ishan Soni**)

-Applicant

V e r s u s

1. Union of India & Ors, Through the Secretary Ministry of Human Resources
Department, Shanti Bhawan, New Delhi-110001

2. Assistant Commissioner Kendriya Vidhyalaya Sangthan, Regional Office,
Opposite Maida Mill Bhopal (M.P.) 462001

3. The Principal, Kendriya Vidhyalaya Sangthan Regional Office, Opposite
Maida Mill, Bhopal (M.P.) -462001
(By Advocate: **Shri S.S.Chouhan**)

- Respondents

ORDER

By Navin Tandon, AM-

This Review Application has been filed by the applicant to review
the order dated 14.08.2015 passed by this Tribunal in Original
Application No.660/2012, whereby the Tribunal has disposed of the
Original Application filed by the applicant.

2. Relevant paragraphs of the order dated 14.08.2015 passed by this
Tribunal in Original Application No.660/2012 read thus:

“(6). In this case, the only document produced by the applicant in support of his claim for grant of pay scale of higher post is the order dated 06.08.1995 wherein he has been asked to take over the charge of the post of Head Clerk. The applicant continued in KV No.1 up to 29.09.1997 only, as after that he was transferred to KV, Karera. Thus, if charge of Head Clerk remained with the applicant during this period, applicant will be entitled to get benefit related to holding of higher post of Head Clerk. The contention of the respondents that they had only asked the applicant to take over the charge of Head Clerk for keeping the records retained by Head Clerk, cannot be accepted as when charge was taken over by applicant he was expected to look after all the work of the post of Head Clerk. Thus, applicant shall be entitled to get the benefits for holding the post of higher responsibility during the period from 06.08.1995 afterwards, till he worked on the post of Head Clerk. As far as working on the post of Superintendent is concerned, the applicant has not produced any document to support his claim in this matter. As regards to other prayer pertaining to revision of retiral benefits, the applicant has not submitted anything in support of this claim and therefore this prayer shall be considered to be not pressed by the applicant and therefore rejected.

(7). In view of the aforesaid, the Original Application is disposed of with direction to the respondents to consider and decide the claim of applicant for payment of benefits payable on officiating on higher post of Head Clerk for the actual period of the posting from 06.08.1995 afterwards till he continued to hold this charge, as per rules, and make payment of arrears, if any, within a period of 90 days from the date of communication of this order. No order on costs”.

3. Now, the applicant has filed the present review application on the ground that the Tribunal has turned down his request for wages for the services rendered by him as Superintendent during the period 09.11.2001 to 26.10.2002 on the sole ground that he had not produced any documentary proof in support of the said claim. Along with this

Review Application the applicant has now annexed a letter dated 28.11.2002 (Annexure RA-2) addressed to the Assistant Commissioner, Kendriya Vidyalaya Sangathan, Bhopal by the Principal, Kendriya Vidyalaya No.1, wherein it has been mentioned that “Para-V - Mr.Kashyap was given the charge of Superintendent being Senior Most UDC at KV.No.1 Bhopal on transfer of Superintendent Mr.M.S.Sharma”.

4. On the other hand the respondents have submitted that there is no record related to handing-taking over of the charge between UDC and Superintendent available in the Vidyalaya nor any evidence which may certify any supervisory work was done by the applicant in the Vidyalaya. As such the applicant never did the supervisory work of Superintendent in addition to his duties.

5. Heard the learned counsel of both sides and carefully perused the pleadings of the respective parties and the documents annexed therewith.

6. It may be noted that scope of review under the provisions of Order 47 Rule 1 of Civil Procedure Code, which provision is analogous to Section 22 (3) (f) of Administrative Tribunals Act, 1985 is very limited.

7. The power of review available to this Tribunal is the same as has been given to a Court under Section 114 read with Order 47 Rule 1 of the Civil Procedure Code. The apex court has clearly stated in **Ajit Kumar Rath Vs. State of Orissa and others**, (1999) 9 SCC 596 that: “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”. This Tribunal can not review its order unless the error is plain and apparent. It has clearly been further held by the apex court in the said case that: “[A]ny 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”.

8. Hon'ble Supreme Court in the matters of **Meera Bhanja (Smt.) Vs. Nirmala Kumari Choudhury (Smt.)**, (1995)1 SCC 170 referring to certain earlier judgments, observed that an error apparent on the face of record must be such an error which must strike one on mere looking at the record. An error which has to be established by a long-drawn process of reasoning on points where there may conceivably be two opinions can hardly be said to be an error apparent on the face of the record. Where an alleged error is far from self-evident and if it can be established, it has to be established by lengthy and complicated arguments, such an error can not be cured in a review proceeding.

9. It is also settled principle of law that the Tribunal cannot act as an appellate court for reviewing the original order. This proposition of law is supported by the decision of the Hon'ble Supreme Court in the case of

Union of India Vs. Tarit Ranjan Das, 2004 SCC (L&S) 160 wherein their lordships have held as under:

“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 order and *rehearing of the matter to facilitate a change of opinion on merits*. The Tribunal seems to have transgressed its jurisdiction in dealing with the review petition as if it was hearing an original application”.

10. Hon'ble Supreme Court in the matters of **State of West Bengal and others Vs. Kamal Sengupta and another**, (2008)2 SCC (L&S) 735 scanned various earlier judgments and summarized the principle laid down therein, which reads 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.”

11. In the instant case we find that the applicant has simply filed some new document in support of his claim, without submitting that the said document was not available with him at the time of disposal of the Original Application. It is settled law that an error which has to be established by a long-drawn process of reasoning on points where there may conceivably be two opinions can hardly be said to be an error apparent on the face of the record warranting review of the order (See- **Meera Bhanja**’s case (supra). Since no error apparent on the face of record as such has been pointed out by the applicant in the instant Review Application, warranting review of the order, in terms of the law laid down by the Hon’ble Supreme Court in the aforementioned cases, the present Review Application is misconceived and is liable to be dismissed.

12. In the result, the Review Application is dismissed.

(Ramesh Singh Thakur)
Judicial Member

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(Navin Tandon)
Administrative Member