

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH
JABALPUR

REVIEW APPLICATION NO.200/00013/2017
(in OA No.200/00477/2016)

Jabalpur, this Monday, the 1st day of January, 2018

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

N.P.Dhamania,

C/o Shri Rishikesh Choudhary,
Yashola Nagar, Azad Ward, Opposite B.T.I.School,
Gadarwara-487551
Legal Practitioner : Self

- APPLICANT

Versus

1. U.O.I. The Secretary D.O.T.,
Ministry of Communications & IT
D/o Telecommunications, Sanchar Bhawan,
20, Ashoka Road, New Delhi-110 001.

2. Secretary, DoP&P.W.,
M/o Personnel, PG & Pensions,
D/o Pension & Pensioners Welfare,
3rd Floor, Lok Nayak Bhavan, New Delhi-110003

- RESPONDENTS

O R D E R(in circulation)

By Navin Tandon, AM-

This Review Application has been filed by the applicant to review the order dated 17.11.2017 passed by the Tribunal in Original Application No.200/00477/2016 whereby his prayer for a direction to the respondents to revise his pension at Rs.40,000/- w.e.f. 1.1.2006 was allowed with some observations. Relevant paragraphs 8 and 9 of the said order read thus:

“(8). A careful reading of the order, it is clear that the Full Bench has specifically decided the same issue which is involved in this Original Application, as to whether the pension of the applicant

was required to be fixed as per his stage corresponding to his pay in the 6th CPC scale, as sought by him at Rs.40,000/- (50% of Rs.80,000/-) or his pension was required to be fixed at 50% of the minimum of the revised pay scale of Rs.75000-80000 at Rs.37750, as mentioned in OM dated 1.9.2008 and further reiterated in OM dated 28.01.2013. In the said OA, the respondents have been directed to consider the revised pay of the applicants corresponding to the pay at which the concerned pensioner had in fact retired, instead of considering the minimum of the said pay scale, thereby determining pension/family pension to pre-2006 retirees. Thus, the claim of the present applicant for fixation of his pension, by taking into account his revised pay corresponding to the pay at which he retired, is liable to be allowed, in terms of the decision of the Full Bench of the Tribunal in OA No.937/2010.

(9). Accordingly, the Original Application is allowed with a direction to the respondents to revise the pension of the applicant at Rs.40,000/- with effect from 01.01.2006 and grant him all consequential benefits as flowing from the order of the Full Bench of the Tribunal in OA No.937/2010. However, this order shall be subject to the final out come of the pending Writ Petition No.8080/2010 before Hon'ble Delhi High Court".

2. From perusal of the order under review it is found that the aforesaid OA No.200/00477/2016 was allowed by relying on a Full Bench order of this Tribunal in OA No.937/2010 with an observation that the order shall be subject to final out come of the pending Writ Petition No.8080/2010 before Hon'ble Delhi High Court.

3. Now, the applicant has filed the present review application on the following grounds:-

- (i) "5.1 The judgment draws wrong result....."
- (ii) "5.2 OM dated 1-9-08 is not properly stated....."
- (iii) "5.3 Hon'ble Court has committed gravest error....."
- (iv) "5.4...Thus Hon'ble Court has committed grave error in para 8 & 9..."
- (v) "5.5 No interest has been ordered..."
- (vi) "5.6 No cost has been awarded....."

4. 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.

5. 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”.

6. 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.

7. 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”.

8. 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.”

9. Since no error apparent on the face of record 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.

10. As regards the payment of interest and cost is concerned, the Tribunal while allowing the Original Application of the applicant has also directed the respondents to “grant him all consequential benefits as flowing from the order of the Full Bench of the Tribunal in OA No.937/2010. However, this order shall be subject to the final out come of the pending Writ Petition No.8080/2010 before Hon’ble Delhi High Court”. Since the decision of the Original Application of the applicant itself is dependent upon the final verdict of the pending Writ Petition before the Hon’ble Delhi High Court, there was no question of separately awarding interest and cost to the applicant.

11. In the result, the Review Application is dismissed at the circulation stage itself.

(Ramesh Singh Thakur)
Judicial Member

(Navin Tandon)
Administrative Member

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