

## CENTRAL ADMINISTRATIVE TRIBUNAL

CALCUTTA BENCH, K O L K A T AREGN. NO. RA/350/00010/2016

[Arising out of OA No. 864 of 2013 &amp; CPC No. 244 of 2015]

with

MA/350/00182/2017Date of Order :- 6<sup>th</sup> Feb<sup>18</sup> -JAN-2018C O R A M

HON'BLE MRS. BIDISHA BANERJEE, MEMBER (JUDL.)

HON'BLE MRS. JAYA DAS GUPTA, MEMBER (ADMN.)

- .....
1. Union of India, service through the Secretary, Ministry of Defence, South Block, New Delhi-110 001
  2. Engineer-in-Chief, Army Head Quarters E-in-C Branch, Kashmir House, Rajaji Marg, New Delhi-110 001.
  3. Chief Engineer, Eastern Command, Fort William, Kolkata-700 021.
  4. Commander Works Engineer (C), Ballygunge Maidan Camp, Kolkata-700 019.
  5. Garrison Engineer, Alipore, Kolkata-700 027.

.....APPLICANTS/ORIGINAL RESPONDENTS

By Advocate :- Mr. Purnendu Mukherjee.

Vs.

Anup Kumar Banik, son of Shri Asutosh Banik, aged about 56 years MES No.209457, was initially appointed as Valveman on 10.04.1998 in the office of the Garrison Engineer (South), Ballygunge Maidan Camp, Kolkata, 700 019 and later on transferred to the office of the Garrison Engineer (South) Kolkata and residing at P-123/14 mes Key Personnel Quarters, Ballygunge Maidan Camp, Kolkata-700 019.

.....RESPONDENT/ORIGINAL APPLICANT.

By Advocate :- Mr. R.K.De

Mr. S.Bhattacharyya.

O R D E R

Per Bidisha Banerjee, Member [Judl.] :- The instant Review

Application has been filed by the applicants/original respondents

praying for review of the judgment and order dated 17.06.2015

passed in OA No. 864 of 2013, along with the Misc. Application, bearing No. MA/350/00182/2016, for condonation of delay in filing the instant Review Application.

2. Before delving into the merit of the Review Application, we would also like to observe that the RA has been filed on 19.04.2016, i.e. more than nine months after the order in the OA, whereas the time limit prescribed for filing review is 30 days. They have filed a petition for condonation of delay, i.e. MA/350/00182/2016. The reasons for delay are not satisfactory. It has been decided in a Larger Bench of the Hon'ble Andhra Pradesh High Court in **G.Narasimha Rao vs. Regional Joint Director of School Education, Warrangal & Others, 2005(4) SLR 720**, that belated application for review cannot be entertained :

“.....The right of review is not a right of appeal where all questions decide are open to challenge. The right of review is possible only on limited grounds, mentioned in Order 47 of the Code of Civil Procedure. Although strictly speaking Order 47 the Code of Civil Procedure may not be applicable to the tribunals but the principles contained therein surely have to be extended. Otherwise there being no limitation on the power of review it would be an appeal and there would be no certainty of finality of a decision. Besides that the right of review is available if such an application is filed within the period of limitation. The decision given by the Tribunal, unless reviewed or appealed against, attains finality. If such power to review is permitted, no decision is final, as the decision would be subject to review at any time at the instance of party feeling adversely affected by the said decision. A party in whose favour a decision has been given cannot monitor the case for all time to come. Public policy demands that there should be end to law suits and if the view of the tribunal is accepted the proceedings in a case will never come to an end. A right of review is available to the aggrieved persons on restricted ground mentioned in

Order 47 of the Code of Civil Procedure if filed within the period of limitation.”

3. It may be worthwhile to reiterate that under the parameters of Order XL VII of Civil Procedure Code, read with Section 22(f) of A.T.Act, the scope of review is very-very limited and except mistakes apparent on the face of the record or any arithmetical or clerical error, review is not permissible. Even erroneous decision by itself does not warrant a review [(2013) 2 SCC 1, **Akhilesh Yadav vs. Vishwanath Chaturvedi**]. In the case of **Subhash vs. State of Maharashtra (AIR 2002 SC 2537)**, Their Lordships of the Hon'ble Apex Court have taken exception to the conduct of the Tribunal in examining the matter, as if it was an original application as it is not the scope of review. Had there been any clerical, arithmetical or apparent error on record, the Tribunal could have corrected the same, if it crept into the record inadvertently. In the case of **Parsian Devi & Others vs. Sumitri Devi and Others (1997 (8) SCC 715)**, Their Lordships have observed that if there is a mistake or an error apparent on the face of the record, a judgment may be opened to review. Further, in the case of **West Bengal vs. Kamal Kumar Sengupta (2008 (8) SCC 612)**, the Hon'ble Supreme Court observed that the Tribunal can review its decision on either of the grounds enumerated in Order 47 Rule 1 and not otherwise. Since appreciation of facts and law and involved, this is not within the permissible ambit of a Review Application. The matter, which can be agitated in appeal/writ before Hon'ble High Court cannot be undertaken in the garb of a review application. This Tribunal is not permitted to re-

B

appreciate the facts and law which exercise can only be undertaken by a higher forum. Hence, ordered.

4. In such view of the matter, the Misc. Application fails.
5. R.A. is accordingly dismissed.

(Jaya Das Gupta)  
Member (Admn.)

(Bidisha Banerjee)  
Member (Judl.)

skj