

CENTRAL ADMINISTRATIVE TRIBUNAL
PATNA BENCH, PATNA
RA 050/00033/2018
[Arising out of OA/050/00483/2018]

Date of Order: 25.09.2018

C O R A M

HON'BLE MR. JAYESH V. BHAIRAVIA, JUDICIAL MEMBER

Manoj Kumar Roy, Applicant.

- Versus -

Union of India & Ors. Respondents.

O R D E R
[In Circulation]

J.V. Bhairavia, J.M.:- The instant Review Application has been filed seeking review of order dated 21.08.2018 passed by this Tribunal in OA/050/00483/2018 by which the OA was dismissed in view of the law laid down by the Hon'ble Apex Court and discussions made in that order.

2. The applicant has mainly sought review/recall/ modification/replacement of para 20 and 21 of the order dated 21.08.2018 and subsequent addition in the order as follows:-

(i) After the sentence, "However, it is expected that the request of the applicant to accommodate him at Kolkata or Kanpur or any other Ordnance Factories, which is nearer to his home town (Bihar State), may be considered in future without applying restrictions clause, i.e. minimum requirement of completion of stipulated tenure at the

posting place" addition of another sentence, i.e. "*The aforesaid direction be complied within two weeks or four weeks*" is sought.

(ii) For substitution of words "the present OA is dismissed" with the words "the present OA is disposed of".

(iii) For direction to the respondents for payment of salary till disposal of the representation on account of stay order of this Tribunal dated 30.05.2018 and also to treat the period after 16.07.2018 till the joining at new place as leave."

3. It is noticed that the reliefs sought by the applicant in the OA were not accepted by this Tribunal in its order dated 21.08.2018. Hence, the OA was dismissed. As such, mere observation as made in para 20 of the order will not alter the decision arrived at by the Tribunal in its order dated 21.08.2018.

4. The scope of review is very limited only to correcting self evident errors. There is no apparent error on the face of record in the Tribunal's order dated 21.08.2018.

5. As per several pronouncements of Hon'ble Supreme Court, viz. ***Parson Devi & Others Vs. Sumitri Devi & Others [1997(8) SCC 715]*** and ***State of West Bengal Vs. Kamal Kumar Sengupta [2008(8) SCC 612]***, the scope of review is very limited, mainly to correcting self-evident errors.

6. In the case of **Parson Devi** (supra), Hon'ble Supreme Court has held as under:-

"Under Order 47 Rule 1 CPC a judgment may be open to review inter alia if there is a mistake or an error apparent on the face of the record. An error which is not self-evident and has to be detected by a process of reasoning can hardly be said to be an error apparent on the face of the record justifying the Court to exercise its power of review under Order 47, Rule 1 CPC. In exercise of the jurisdiction under Order 47, Rule 1 CPC it is not permissible for an erroneous decision to be "reheard and corrected". There is a clear distinction between an erroneous decision and an error apparent on the face of the record. While the first can be corrected by the higher forum, the latter only can be corrected by exercise of the review jurisdiction. A review petition has a limited purpose and cannot be allowed to be "*an appeal in disguise*". [Emphasis added]

6. Further, in the case of **Kamal Kumar Sengupta** (supra),

Hon'ble Supreme Court has held as under:-

" 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 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."

7. This review application amounts to request for re-hearing and re-adjudication which is beyond the scope of review. Therefore, the RA is dismissed in circulation.

**[J.V. Bhairaiva]
Judicial Member**

Srk.