

CENTRAL ADMINISTRATIVE TRIBUNAL
PATNA BENCH, PATNA
RA 050/00036/2018
[Arising out of OA/050/00709/2018]

Date of Order: 03.10.2018

C O R A M

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

Union of India & Ors., Applicant.

- Versus -

Bharat Bhushan Bharti, Respondents.

O R D E R
[In Circulation]

J.V. Bhairavia, J.M.:- The instant Review Application has been filed by the applicants (respondents in OA) seeking review of order dated 24.08.2018 passed by this Tribunal in OA/050/00709/2018 by which the OA was dismissed.

2. The main ground taken by the applicants for review of order dated 24.09.2018 is that National Institute for Locomotor Disabilities (Divyangjan) is an autonomous body and registered under Society Act XVI of 1860 and is not notified under Section 14(2) of the AT Act, 1985 and as such is not within the jurisdiction of the Tribunal. It is submitted that though preliminary objection was raised by the applicants (applicant no. 3, i.e. Director, NILD, Government of India, Kolkata) with regard to jurisdiction of the Tribunal under Section 14(3) of the AT Act, 1985, but the OA was disposed of at the

admission stage itself holding the objection as not justified. The applicants have also annexed various orders of this Tribunal as Annexures - B, C and D in this regard to substantiate their prayer for review.

3. I have gone through the order dated 24.09.2018 under review. It is noticed that this Tribunal in the said order has observed as follows:-

“7. On the other hand, ASC Shri Ram Kinker Choubey appears on behalf of respondent No.3 i.e. Director, NILD, Kolkata and submits that the said institute is not notified under Rule 14 of Administrative Tribunal Act, 1985 and objected to entertain this O.A. on the ground of lack of jurisdiction.

In response to it, learned counsel for the applicant submitted that considering the applicant being a central government employee, the Hon'ble High Court was not inclined to entertain the writ petition and, therefore, liberty was granted to approach appropriate forum and at that time, the counsel for the respondent No.3 has not objected with regard to the jurisdiction of this Tribunal under A.T. Act. In fact, the applicant was subjected to disciplinary proceeding under CCS (CCA) Rules, 1965 being a Central Government employee. Therefore, this Tribunal has jurisdiction to consider the dispute raised in this O.A.

8. On receipt of advance copy, learned Sr. Standing Counsel for Union of India Shri H.P. Singh appears for respondents No.1 & 2 submits that the said institute i.e. Respondent No.3 is under Ministry of Social Justice and Empowerment, Government of India and the staff of CRC at Patna are also under the Central Government.

9. Since it is noticed that the applicant is a central Government employee and disciplinary proceeding initiated against him under CCS (CCA) Rules, 1965, the contention raised by the respondent No.3 about lack of jurisdiction of this Tribunal is not justified.”

4. From the above, it transpires that the objections raised by the learned counsel for respondent no. 3 have been replied to by the learned counsel for the applicant and considering the said submission of the learned counsel for the applicant the order dated 24.09.2018 was passed

5. I also find that the judgments cited by the applicants (Respondents in this RA) were not brought to the notice of this Tribunal at the time of hearing on 24.09.2018.

6. As held by Hon'ble Supreme Court, 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.

7. 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.

8. 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]

9. 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.”

10. 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.