

**CENTRAL ADMINISTRATIVE TRIBUNAL
CHANDIGARH BENCH**

...

**RA No.060/0064/2018 &
M.A. NO. 60/1844/2018 in
OA No.060/0018/2017**

Chandigarh, this the 12th day of March, 2019

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**CORAM: HON'BLE MR. SANJEEV KAUSHIK, MEMBER (J)
HON'BLE MRS. P. GOPINATH, MEMBER (A)**

Karamjit Singh s/o Sh. Harchand Singh, permanent r/o village Kuhilkhurd, P.O. Lehal, Tehsil Payal, District Ludhiana, Punjab, presently r/o 193-32550, Maclure Road, Abbotsford, BC V2T4N3, Canada, through special power of attorney namely Balkar Singh s/o Sh Bhajan Singh, r/o village Lassara Pholewass, P.O. Nizampur, Tehsil Paya, District Ludhiana.

....Review Applicant

Present: Mr. Harkirat Singh Ghuman, Advocate

VERSUS

1. Union of India Ministry of Defence, South Block, New Delhi, through its Defence Secretary.
2. Chief Engineer, Headquarters Western Command, Chandimandir, c/o 56 Apo PIN 908 543.
3. Chief Engineer, Jalandhar Zone, Military Engineer Service, Jalandhar Cantonment, PIN 144 005.
4. Commander Works Engineer, Military Engineer Service, Ferozepur Cantonment, PIN 900 346.
5. Garrison Engineer, Military Engineer Service, Near Jagraon Bridge, Ludhiana, PIN 141 001.

.... Respondents

ORDER (oral)

SANJEEV KAUSHIK, MEMBER (J):-

The present Review Application (RA) has been filed by the original applicant, under Section 22 (3) (f) of the Administrative Tribunals Act, 1985, to review order dated 05.09.2018, whereby Original Application

No.060/00018/2017 filed by him was dismissed on merits. The said order was challenged by the applicant in judicial review before the jurisdictional High Court by filing CWP No. 27974 of 2018, which was dismissed as withdrawn vide order dated 31.10.2018 with liberty to the petitioner to take recourse to the remedies as may be available to him, in accordance with law. It is thereafter, the applicant has filed present R.A.

2. We have heard the learned counsel for the review applicant.

3. The learned counsel for review applicant argues that since the respondents have not conducted any inquiry and straightway passed the impugned order of removal from service, therefore, the action of the respondents in passing the same is bad in law and is liable to be set aside and consequently the order dated 5.9.2018 be reviewed. In support of his plea he has placed reliance on the judgment of Hon'ble Supreme Court in the case of **Board of Control for Cricket, India and another vs. Netaji Cricket Club and other** reported in 2005 AIR (SC) 592.

4. We have given our thoughtful consideration to the matter and have minutely gone through the file of R.A. as well as O.A.

5. Order dated 28.5.2011 (Annexure A-3) with the O.A. makes it clear that the applicant was served with a charge-sheet under Rule 14 of CCS (CCA) Rules, 1965 and when he did not receive the same the respondents published notice in the local newspaper regarding holding of enquiry and directed the applicant to attend the enquiry within ten days of publication of notice. Thereafter, Enquiry Officer was appointed who looked to look into the charges levelled against the applicant and he submitted his report on the basis of ex-parte proceedings. Based upon that the Disciplinary Authority had passed the impugned order. The averment to that effect has been made in reply to O.A. (at page 41 of the

O.A.). Therefore, the plea of the applicant seeking review of order cannot be accepted.

6. What one cannot possibly dispute is that an order can only be reviewed if the case falls squarely within the legal ambit of review and not otherwise. Order 47 Rule 1 of Code of Civil Procedure, 1908 read with Section 22(3)(f) of the Administrative Tribunals Act, 1985 regulates the provisions of review of the orders. According to the said provision, a review will lie only when there is discovery of any new and important matter or evidence which, after the exercise of due diligence, was not within the knowledge, or could not be produced by the review applicants seeking the review at the time when the order was passed, or made on account of some mistake or error apparent on the face of the record, or for any other sufficient reason.

7. It is now well settled principle of law that 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 re-hearing of the matter, to facilitate a change of opinion on merits. The reliance in this regard can be placed on the judgments of the Hon'ble Supreme Court in cases of **PARSION DEVI AND OTHERS VS. SUMITRI DEVI AND OTHERS** (1997) 8 SCC 715, **AJIT KUMAR RATH VS. STATE OF ORISSA** (1999) 9 SCC 596, **UNION OF INDIA VS. TARIT RANJAN DAS** (2003) 11 SCC 658 and **GOPAL SINGH VS. STATE CADRE FOREST OFFICERS' ASSOCIATION & OTHERS** (2007) 9 SCC 369.

8. An identical question came up to be decided by Hon'ble Apex Court in case **STATE OF WEST BENGAL AND OTHERS VS. KAMAL SENGUPTA AND ANOTHER** (2008) 8 SCC 612. Having interpreted the scope of review and considering the catena of previous judgments

mentioned therein, the following principles were culled out to review the orders:-

(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.”

9. Meaning thereby that an order can only be reviewed if case strictly falls within the pointed domain of Order 47 Rule 1 CPC read with Section 22(3)(f) of the Administrative Tribunals Act, 1985 and not otherwise. It is

thus clear that review jurisdiction is a very limited one. It is not meant for rehearing of the case nor is it in the nature of appeal.

10. From the grounds mentioned in the R.A., we find that the case does not fall within review jurisdiction under Order 47 of the Code of Civil Procedure as applicant is trying to reargue the case all over again. There are no new facts or material/evidence. There is no error apparent on the face of record, so as to invoke review jurisdiction.

11. In view of all above, we find no ground to review order dated 5.9.2018. R.A. is bereft of any merit and is accordingly dismissed.

(P. GOPINATH)
MEMBER (A)

(SANJEEV KAUSHIK)
MEMBER (J)

Dated: 12.03.2019.

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