

**Central Administrative Tribunal
Jaipur Bench, Jaipur**

**R.A.No.8/2017 IN
O.A. No. 228/2016**

Reserved on : 18.12.2018
Pronounced on: 21.12.2018

Hon'ble Mr. A. Mukhopadhyaya, Member (A)

1. Union of India through its Secretary, Ministry of Finance, Department of Revenue, North Block, New Delhi.
2. Chairman, Central Board of Direct Taxes, Ministry of Finance, Department of Revenue, North Block, New Delhi.
3. Principal Commissioner of Income Tax, Kota Division, Kota.

..Review Applicants.

(By Advocate: Shri Gaurav Jain)

Versus

1. Pawan Kumar Rawal son of Shri Chhotu Lal, aged about 29 years, resident of 1/32, Ganesh Talab, Basant Vihar, Kota District – Kota.
2. Anil Kumar son of Shri Chhitar Lal, aged about 32 years, resident of C/o Narottam Lal Sharma, H.No.95, Tilak Nagar – Kota 324007.
3. Jitendra Kataria son of Shri Suraj Mal, aged about 29 years, resident of 3-K-13, Dada Bari, Extension, Kota.
4. Shambhu Dayal Suman son of Shri Chandra Mohan, aged about 29 years, resident of Kankreshwar Mahadev Mandir, Kunahadi, Kota.
5. Sandeep Singor son of Shri Chand Mal Singor, aged about 30 years, resident of Near Vijayvargiya Ice Factory, Rampura, Kota.

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6. Vinit Kumar Gochar son of Shri Birdhi Lal Gochar, aged about 29 years, resident of Cable Nagar, Ladbura, Behind Bus Stand, Kota - 355003.
7. Raj Kumar Meghwal son of Shri Kishan Gopal, aged about 27 years, resident of H.No.55, New Railway Colony, Purohitji ki Tapri, Near Nehar Ki Pulia, Kota Junction – Kota 324002.

..Respondents/Non petitioners

(By Advocate: Shri C.B.Sharma)

ORDER

The review petitioners were the respondents in OA No.228/2016, which was decided by this Tribunal vide its order dated 24.05.2017. The applicants/review petitioners have filed the present Review Application under Rule 17 of the Central Administrative Tribunal (Procedure) Rules, 1987 seeking review of the order dated 24.05.2017.

2. Under Section 22(3) (f) of the Administrative Tribunals Act, 1985, the Tribunal has power to review its own decision.
3. Heard Shri Gaurav Jain, learned counsel for the review petitioners and Shri C.B.Sharma, learned counsel for the non petitioners.
4. The review petitioners state that in their written reply to OA No.228/2016 they had specifically pleaded in respect of Applicant No.5, i.e. Sandeep Singor that he was working with the department since June 2008 till 30.03.2014 and was subsequently jailed for wrongdoing. They aver that the Hon'ble courts, while delivering the judgment in many other cases

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relating to casual workers, have categorically held that daily wage workers whose conduct and antecedents are not correct are not to be extended the benefit of favourable court orders. On this ground, they contend that since the said Applicant No.5, Shri Sandeep Singor concealed the true facts and circumstances of his case from the Tribunal, Original Application No.228/2016 is liable to be dismissed, at least in so far as it applies to him.

5. The petitioners aver that their pleadings with regard to Applicant No.5 were not taken into account by this Tribunal when passing the order under review and that this omission is tantamount to being an error on the face of record. Accordingly, they pray that the impugned judgment/order of 24.05.2017 passed by this Tribunal be modified to the extent of dismissing the OA filed by Applicant No.5, Sandeep Singor so that the operative part of this order, (i.e. Para-5), does not apply to Shri Sandeep Singor.

6. Per contra, Shri C.B.Sharma, learned counsel for the non-petitioners, (the applicants in OA No.228/2016), points out that Para-5 of the order dated 24.05.2017 passed in OA No.228/2016 reads as follows:

“5. Considered the aforesaid contentions and perused the record. It appears that the case of the applicants is similar to those applicants in the case of Jeevan Singh Gehlot & Others and Mahendra Singh & Others (supra), therefore, the respondents are directed to consider the cases of the applicants in the light of the aforesaid orders and judgments

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at the earliest, but keeping in view that there are number of applicants in the OA, decide the same within a period of four months. The OA is disposed of with the above directions, with no order as to costs."

7. Shri C.B.Sharma argues that the operative portion of this order merely enjoins upon the respondents, (petitioners in this RA), to "**consider the cases of the applicants in the light of the aforesaid orders and judgments**" and "**decide the same within a period of four months**". Thus the petitioners are at liberty to consider whatever else may be material to the case of Applicant No.5 Shri Sandeep Singor in addition, while complying with the direction of the Court. Shri C.B.Sharma further argues that the scope for review is a very limited one in law and that in the present case there is no evidence whatsoever of any error on the face of the record either by way of commission or by omission. Accordingly, he prays that the Review Application be dismissed.

8. I have carefully considered the averments made by learned counsels for the review petitioners and the non petitioners.

9. On perusal of the record and consideration of the arguments propounded by learned counsel for the parties, what emerges undisputed in this case is that the direction given in the impugned order/judgment of 25.04.2017 is limited to the cases of the applicants in the OA in question being considered in the light of the orders referred to in the cases of **Jeevan Singh Gehlot and**

Others vs. Union of India & Others and Mahendra Singh & Others vs. Union of India & Others within a period of four months. Learned counsel for the petitioners, while arguing that what he terms are special circumstances in the case of Sandeep Singor, (Applicant No.5 in the OA), should have been taken into account in the impugned order, has not been able to demonstrate in any manner how these circumstances are materially relevant to either the findings or thereafter the direction given in the order of 25.04.2017 so as to warrant the passing of a different order in the case of Shri Sandeep Singor. While it is open to the parties and their counsel in a given case to present pleadings as they deem appropriate, it is for the court to determine the extent to which the pleadings presented are relevant to the issues involved in the dispute and take the same into consideration. There is nothing to show that this has not been done here. Accordingly, there appears to be no evidence of any kind of error of commission or omission which is apparent on the face of the record.

10. The Hon'ble Apex Court in the case of Ajit Kumar Rath vs. State of Orissa, reported in AIR 2000 SC 85 has held as under:-

"The power of review available to the Tribunal is the same as has been given to a court under Section 114 read with Order 47 CPC. The power is not absolute and is hedged in by the restrictions indicated in Order 47. The power can be exercised on the application of a person on the discovery of new and important matter or evidence which, after the exercise of due diligence,

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was not within his knowledge or could not be produced by him at the time when the order was made. The power can also be exercised on account of some mistake or error apparent on the face of the record or for any other sufficient reasons. 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 makes it clear that power to review can be exercised only if there is discovery of new and important matter or evidence which, after exercising of due diligence, was not within the knowledge of the review petitioner and could not have been produced by him at the time when the order was made. Clearly this stipulation is not relevant to the present case as it is not the petitioner’s case that any matter/evidence now produced in support of the Original Application could not be produced at the time of the Original Application itself.

The second circumstance which can justify a review is that there is some mistake or error apparent on the face of the record. Going by this criterion also, the case falls outside the scope of review as the judgment of the Hon’ble Apex Court (supra) has elaborately described a patent error of law or fact as one which “stares in the face without any elaborate argument being needed for establishing it”.

11. Again, in the case of Smt. Meera Bhanja vs. Nirmal Kumari, reported in AIR 1995 SC 455 the Hon’ble Apex Court has

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observed that reappreciating facts or law in any way by a Court/Tribunal while reviewing its own decision amounts to overstepping its jurisdiction in review. In this case, the petitioner appears to have sought a reconsideration and reappreciation of the material placed on record through this Review Application and has in effect sought a consideration of the matter afresh.

12 Given the clear and unambiguous guidelines laid down by the Hon'ble Supreme Court as mentioned above and the fact that I do not find any error apparent on the face of the record, any substantive consideration of the reasons for review advanced by the petitioner would be tantamount to being an exercise in reassessment and reappreciation of the facts and law pertaining to this matter. This is clearly outside the limited scope of review. The application for review of the order of the Tribunal is thus unsustainable and is accordingly dismissed as having no merit.

(A.Mukhopadhyaya)
Member (A)

/kdr/