



BEFORE THE HON'BLE CENTRAL ADMINISTRATIVE TRIBUNAL,

CALCUTTA BENCH, NIZAM PALACE

KOLKATA

**R.A. NO. 350/00005 OF 2018**

Arising out of

O.A. No. 350/01473 of 2017

In the Matter of :

An application for review of the order  
dated 05.12.2017 passed by the A.K.  
Patnaik, Hon'ble Member (J) in O.A.

No. 350/01473 of 2017, *Rule 17 of CAT  
Procedure Rule 1987.*

And

In the matter of :

Sri Sribash Chandra Biswas, son of  
Late Sumanta Biswas, residing at  
Bethaduri, Post Office- Nichi Bazar,  
Police Station - Nakashipara, District-  
Nadia, Pin- 741126.

Now working for gain in the office of  
the Deputy Welfare Commissioner  
(Central Hospital), Dhuliyon at  
Tarapur, Post Office- Malancha,  
District- Murshidabad, Pin-742202.

..... Applicant

## Versus

1. Union of India. service through the Director General, Ministry of Labour and Employment, Jaisalman House Mansingh Road, New Delhi-110011.

2. Welfare Commissioner, Labour Welfare Organisation, office at Welfare & Cess Commissioner, 5<sup>th</sup> Floor, 2<sup>nd</sup> M.S.O. Building, Nizam Palace, 234/4, A.J.C. Bose Road, Kolkata - 700 020.

3. Deputy Welfare Commissioner, Labour Welfare Organisation, office at Welfare & Cess Commissioner, 5<sup>th</sup> Floor, 2<sup>nd</sup> M.S.O. Building, Nizam Palace, 234/4, A.J.C. Bose Road, Kolkata -700 020.

4. Administration- cum - Accounts, Labour Welfare Organisation office at Welfare & Cess Commissioner, 5<sup>th</sup>



Floor, 2<sup>nd</sup> M.S.O. Building, Nizam  
Palace, 234/4, A.J.C. Bose Road,  
Kolkata -700 020.

5. Deputy Welfare Commissioner,  
(Central Hospital), Dhuliyon, Post  
Office- Malancha, District-  
Murshidabad, Pi- 742202.

6. Medical Officer-in-Charge,  
attached to the Office of Deputy  
Welfare Commissioner, (Central  
Hospital), Dhuliyon, Post Office-  
Malancha, District- Murshidabad, Pi-  
742202.

7. Arindam Bhar, (father's name not  
known) now working for gain at the  
office of Medical Officer, SCMMU,  
Karimpur, District- Nadia, PIN-  
741126

..... Respondents

WQ

CENTRAL ADMINISTRATIVE TRIBUNAL  
KOLKATA BENCH

R.A/350/00005/2018  
(OA/350/01473/2017)

Date of Order: 10.12.2018

Coram: Hon'ble Mr. A.K Patnaik, Judicial Member

***Sribash Chandra Biswas-VS-UOI & Ors.***

For the Applicant(s): None

For the Respondent(s): None

A.K Patnaik, Member (J):

As per Rules this RA has been placed on circulation. Perused the records.

2. The order dated 05.12.2017 in OA No. 350/001473/2017 has been sought to be reviewed in this Review Application filed by the applicant.

3. The order sought to be reviewed in this RA is a reasoned order passed after giving due opportunity to the applicant.

The short question that falls for consideration is as to whether this RA can be entertained in view of the principles set out in order 47 Rule 1 CPC in which it has been provided as under:

“Any person considering himself aggrieved-

a) by a decree or order from which an appeal is allowed, but from which no appeal has been preferred,

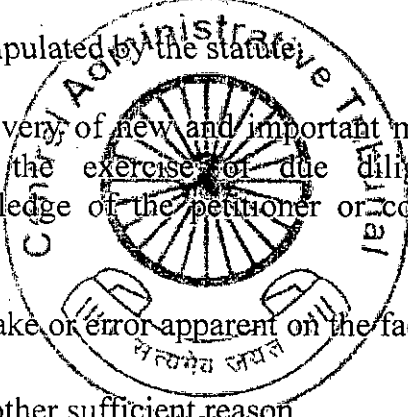
*Wd*

b) by a decree or order from which no appeal is allowed, or

c) by a decision on a reference from a Court of Small Causes,

and who, from the discovery of new and important matter or evidence which, after the exercise of due diligence, was not within his knowledge or could not be produced by him at the time when the decree was passed or order made, or on account of some mistake or error apparent on the face of the record, or for any other sufficient reason, desires to obtain a review of the decree passed or order made against him, may apply for a review of judgment to the court which passed the decree or made the order."

From the above it is crystal clear that a review is maintainable on the following grounds, as stipulated by the statute:

- 
- i) Discovery of new and important matter or evidence which, after the exercise of due diligence, was not within knowledge of the petitioner or could not be produced by him;
  - ii) Mistake or error apparent on the face of the record;
  - iii) Any other sufficient reason.

It is not the case of the applicant in this RA that any error was crept in the order which is contrary to the record. The Applicant himself has enclosed the letter/communication made to the Advocate by the Departmental Respondents.

4. The Hon'ble Apex Court as well as by this Bench, on numerous occasions, had deliberated upon the very same issue, arriving at the conclusion that review proceedings are not by way of an appeal and have to be strictly confined to the scope and ambit of Order 47 Rule 1 of CPC. In **Aribam Tuleshwar Sharma v Aribam Pishak Sharma**, (1979) 4 SCC 389=AIR 1979

lal

SC 1047, the apex court held that there are definite limits to the exercise of power of review. In that case, an application under Order 47 Rule 1 read with Section 151 of the Code of Procedure was filed which was allowed and the order passed by the Judicial Commissioner was set aside and the writ petition was dismissed. On an appeal to the apex court, it was held as under:

"It is true as observed by this Court in *Shivdeo Singh v State of Punjab*, AIR 1963 SC 1909 there is nothing in Article 226 of the Constitution to preclude a High Court from exercising the power of review which inheres in every court of plenary jurisdiction to prevent miscarriage of justice or to correct grave and palpable errors committed by it. But, there are definite limits to the exercise of the power of review. The power of review may be exercised on the discovery of new and important matter or evidence which, after the exercise of due diligence was not within the knowledge of the person seeking the review or could not be produced by him at the time when the order was made; it may be exercised where some mistake or error apparent on the face of the record is found; it may also be exercised on any analogous ground. **But it may not be exercised on the ground that the decision was erroneous on merits. That would be the province of a court of appeal.** A power of review is not to be confused with appellate powers which may enable an appellate court to correct all manner of errors committed by the subordinate court."

*(Emphasis added)*

The judgment in *Aribam Case*, AIR 1979 SC 1047, has been followed in the case of *Meera Bhanja*, AIR 1995 SC 455. In that case, it has been reiterated that an error apparent on the face of the record for acquiring jurisdiction to review must be such an error which may strike one on a mere looking at the record and would not require any long drawn process of reasoning.

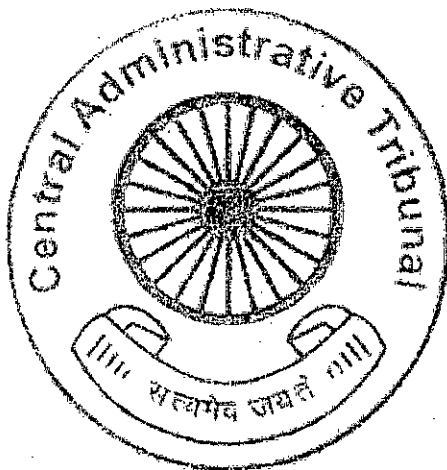
5. In *Parsion Devi & Ors. vs. Sumitri Devi & Ors.*, (1997) 8 SCC 715, the Hon'ble Apex Court also held as under:-

*WAL*

"9. 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.** A review petition, it must be remembered has a limited purpose and cannot be allowed to be "an appeal in disguise".

*(Emphasis added)*

6. The above being the facts and law, and since there is no error apparent on the face of the record, I find no ground to entertain this Review Application which is accordingly dismissed. Inform the parties accordingly.



(A.K.Patnaik)  
Member (Judl.)

RK/PS