

CENTRAL ADMINISTRATIVE TRIBUNAL
PATNA BENCH, PATNA.
RA/050/00034/2017
[OA/050/00689/2016]

Date of order : 26th April., 2019

C O R A M

Hon'ble Shri Jayesh V. Bhairavia, Member [Judicial]
Hon'ble Shri Dinesh Sharma, Member [Administrative]

Deepak Kumar Mishra, S/o Shri Anil Kumar Mishra, aged 40 years, Scientific Officer/E, RRCAT, R/o EB-3/13, Efficiency Apartment, RRCAT Colony, PO – CAT, Indore – 452013.

Applicant

By Advocate : Shri R.C.Shukla.

Vrs.

1. Union of India through Secretary, Department of Atomic Energy, Anushkti Bhawan, C.S. M. Marg, Mumbai – 400001.
2. Shri R.K. Sinha, Ex-Secretary, Department of Atomic Energy, Anushkti Bhawan, C.S. M. Marg, Mumbai – 400001.
3. Shri Sekhar Basu, Secretary, Department of Atomic Energy, Anushkti Bhawan, C.S. M. Marg, Mumbai – 400001.
4. Shri S. Goverdhan Rao, Dy. Chief Executive [Admin] & Inquiring Authority, Nuclear Fuel Complex, Hyderabad – 500062.
5. Dr. V.K. Senecha, Head Ion Source Lab, PLSCD, Raja Ramanna Centre for Advanced Technology, Indore – 452013.
6. Dr. P.D. Gupta, Ex-Director, Raja Ramanna Centre for advanced Technology, Indore – 3452013.

Respondents .

By advocate : None

O R D E R
[oral order]

Per Jayesh V. Bhairavia, Member [J]:- The instant Review Application bearing No. RA/050/00034/2017 has been filed to review the order passed by this Tribunal on 03.03.2017 in OA No. OA/050/00689/2016 on the ground that neither any date for argument was fixed by the Tribunal nor any written statement was filed by the respondents, and all of a sudden on 03.03.2017, the Tribunal suo motu dismissed the OA on the basis of ruling of the Hon'ble Supreme Court, which was not relied upon by the applicant.

2. Heard the learned counsel for the applicant and gone through the materials available on record.

3. On perusal of the order passed in OA/050/00689/2016 dated 3rd March, 2017, it is noticed that after hearing the applicant in person and the learned standing counsel for the respondents, Shri Rajesh Kumar, the OA was dismissed by an oral order, being devoid of merit since quashing of charge memo before culmination of the disciplinary proceeding was not permissible.

3. We find that the Apex Court in the State of West Bengal & Ors. Vs. Kamal Sengupta and another, 2008 (3) AISLJ 209, vide para 28 of its judgment has held that the ingredients to be met in case of a review order has to be the following :

- (i) Power of Tribunal to review is akin to Order 47 Rule 1 CPC read with Section 114,
- (ii) Grounds enumerated in Order 47 Rule 1 to be followed and not otherwise,
- (iii) Any other sufficient reason appearing in Order 47 Rule 1 has to be interpreted in the light of other specified grounds.
- (iv) Order cannot be reviewed on the basis of subsequent decision/judgment of co-ordinate larger Bench or superior Court,
- (v) Adjudication with reference to material which was available at the time of initial decision. Subsequent event/development is not error apparent.
- (vi) Mere discovery of new/important matter or evidence not sufficient ground for review. The party has to show that such matter or evidence was not within its knowledge and even after exercise of due diligence, the same could not be produced earlier before the Tribunal.

The Apex Court in **Gopal Singh vs. State Cadre Forest Officers' Association & Ors.**, (2007) 2 SCC (L&S) 819, has held that "a Tribunal cannot sit over its own judgment as an appellate authority." It cannot write a second order. In a review reasons have to be given why a review is justified. Error apparent on the face of the record has to be justified.

4. Under the circumstances, we find no merit in the Review Application and the same is accordingly dismissed. No costs.

Sd/-

[Dinesh Sharma]
Member [Admn.]

Sd/-

[Jayesh V. Bhairavia]
Member [Judicial]

mps/-