CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH: NEW DELHI

RA 180/2019
in
O.A. No.3440/2018

This the 7th day of October 2019

Hon'ble Ms. Nita Chowdhury, Member (A)

Sh. Sushil Kumar Bali, Group 'B' Asstt. Engineer
Aged about 57 years,
S/o Sh. Kedar Nath Bali,
R/o 71/50, Ist Floor, Prem Nagar,
Janak Puri, New Delhi-110058

...Review Applicant

(Filed by Advocate: Shri M.K. Bhardwaj)

VERSUS

1. Govt. Of India
through the Director General (Works),
CPWD, A-Wing, Nirman Bhawan,
New Delhi-110001.

2. The Engineer-in-Chief, PWD,
12th Floor, MSO Building,
IP Estate, New Delhi-110002.

3. The Superintendent Engineer,
North Maintance Circle (M-32)
PWD, Kasmiri Gate, Delhi-110006.

.....Review Respondents

O R D E R (in Circulation)

The present Review Application is filed by the Review Applicant seeking review of the Order dated 8.8.2019 passed in OA 3440/2018 passed by this Court.

2. This Tribunal has perused the said Order under Review. The grounds A. to I. taken in the present Review Application are not based on any error apparent on the face of record. In fact, the review applicant is questioning the conclusion arrived at by this Bench in the said Order. If this Court agrees

to review applicant's prayer, this Court would be going into the merits of the case again and re-writing another judgment of the same case. By doing so, this Court would be acting as an appellate authority, which is not permissible in review. In the case of ***Aribam Tuleshwar Sharma vs. Aribam Pishak Sharma,*** [AIR 1979 SC 1047], the Hon'ble Supreme Court has observed as follows:-

> "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 is inherent in every Court of plenary jurisdiction to prevent miscarriage of justice or to correct grave and palpable errors committed by it. But, there are definitive 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 power which may enable an Appellate Court to correct all matters or errors committed by the Subordinate Court."

Again in the case of ***Ajit Kumar Rath vs. State of Orissa and others***, 1999 (9) SCC 596, the Hon'ble Supreme Court has observed as follows:-

> "The provisions extracted above indicate that 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, 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 reason. 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. **It may be pointed out that the expression "any other sufficient reason" used in Order 47 Rule 1 means a reason sufficiently analogous to those specified in the rule.**

Any other attempt, except an attempt to correct an apparent error or an attempt not based on any ground set out in Order 47, would amount to an abuse of the liberty given to the Tribunal under the Act to review its judgment."

[Emphasis added]

In the case of ***Gopal Singh vs. State Cadre Forest Officers' Assn. and others***, (2007 (9) SCC 369), the Hon'ble Supreme Court observed as follows:-

"The learned counsel for the State also pointed out that there was no necessity whatsoever on the part of the Tribunal to review its own judgment. Even after the microscopic examination of the judgment of the Tribunal we could not find a single reason in the whole judgment as to how the review was justified and for what reasons. No apparent error on the face of the record was pointed, nor was it discussed. Thereby the Tribunal sat as an appellate authority over its own judgment. This was completely impermissible and we

> agree with the High Court (Justice Sinha) that the Tribunal has traveled out of its jurisdiction to write a second order in the name of reviewing its own judgment. In fact the learned counsel for the appellant did not address us on this very vital aspect."

3. Thus, on the basis of the above citations and observations made hereinabove, this Court comes to the conclusion that it was not open to the review applicant to question the merits of the decision taken by this Tribunal vide Order dated 8.8.2019, In fact, the review applicant could have pointed out only some mistake or error apparent on the face of the record or for any other sufficient reason or on the discovery of new and important matter or evidence which, after the exercise of due diligence, was not within its knowledge or could not be produced by review applicant at the time when the order was made, but no such thing is pointed out in any of the grounds taken in the Review Application. As such the present Review Application does not come within the ambit of provisions of review as whatever pleas taken in the OA, as have been raised in the instant RA, were duly considered by this Tribunal while passing the order under review. As such this Review Application is devoid of merit and the same is accordingly dismissed in circulation.

(Nita Chowdhury)
Member (A)

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