CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH:
NEW DELHI

RA No.185 of 2019
IN
O.A. NO.2618 of 2018

This the 11th day of October 2019

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

Sh. Himanshu Gupta
Aged about 30 years
S/o Sh Padam Chand Gupta
R/o n-21, Laxmi Nagar
Near Jagat Ram Park
Delhi-110092
(Working as Postal Assistant)

....Applicant

VERSUS

Union of India through

1. Secretary,
   Department of Posts,
   Ministry of Communication & IT,
   Dak Bhawan, Ashoka Road,
   New Delhi

2. Chief Postmaster General,
   Delhi Circle,
   Meghdoot Bhawan,
   Jhandewalan, New Delhi

3. Sr. Supdt of Post Offices,
   New Delhi Central Division
   Meghdoot Bhawan, New Delhi

4. Sr. Post Master,
   Indraprastha Head Office, New Delhi-110002

.....Respondents

(Filed by Advocate : Shri R.K. Sharma)

O R D E R (in Circulation)

The present Review Application is filed by the Review Applicants (respondents in original *lis*) seeking review of the Order dated 22.8.2019 passed in OA 2618/2018 by this Court.

2. This Tribunal has perused the said Order under Review as well as review application. From perusal of the same, it is clear that the review applicants are questioning the conclusion arrived at by this Bench in the said Order. If this Court agrees to review applicants' 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 applicants to question the merits of the decision taken by this Tribunal vide Order dated 22.8.2019. In fact, the review applicants 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 applicants at the time when the said order was made, but no such thing is pointed out 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 counter affidavit 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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