

**IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH: HYDERABAD**

**Review Application No.021/00023/2019
In
Original Application No.21/00458/2017**

Date of Order:19.07.2019

Between:

O. Praveen Kumar, S/o. O. Kashaiah,
Aged about 32 years, Working as Plane Tabler, Gr.II,
O/o. The Director, Andhra Pradesh GEO-Spatial Data Centre,
Uppal, Hyderabad – 500 039.

...Applicant

And

1. The Union of India rep. by
The Surveyor General of India,
Dehradun – 248 001, Uttarakhand State.
2. The Additional Surveyor General,
Southern Zone, Sarjapur Road,
Koramangala, 2nd Block,
Bangalore – 560 034, Karnataka State.
3. The Director,
The Andhra Pradesh Geo-Spatial Data Centre,
Uppal, Hyderabad – 500 039.

...Respondents

Counsel for the Applicant	...	Mrs. Rachna Kumari
Counsel for the Respondents	...	Mr. V. Vinod Kumar, Sr. CGSC

CORAM:

<i>Hon'ble Mr. B.V. Sudhakar</i>	...	<i>Member (Admn.)</i>
----------------------------------	-----	-----------------------

ORDER (By Circulation)
{As per Hon'ble Mr. B.V. Sudhakar, Member (Admn.)}

2. The RA is filed requesting review of the verdict of this Tribunal in OA 458 of 2017, dt.8.04.2019.

3. The operative portion of the verdict is as under:

“ II) In the instant case charge sheet was issued, inquiry was conducted twice, and after considering the representations of the applicant by the disciplinary and the Appellate authorities respectively, penalty of recovery of Rs 1,20,000 was imposed. Respondents did give ample opportunities to the applicant to clear himself but he could not and there is nothing mala fide noticed in the decision of the respondents.

III) Therefore, keeping the above in view, Tribunal does not find any reason to intervene on behalf of the applicant to grant the relief sought and hence the OA is dismissed with no order as to costs. The stay granted on 16.6.2017 by this Tribunal is vacated.”

4. As no hearing is considered necessary, the Review Application is being disposed under circulation as per Rule 17(3) of the C.A.T. (Procedure) Rules, 1987.

5. In the instant case, it has been, *inter alia*, stated in the Review Application that, recovery is a subject to be dealt with by Division Bench and not by the Single Member Bench. However, learned counsel for the applicant as well as the respondents have argued the case, without raising any objection at the time of submission before the Tribunal. Therefore, taking objection on this aspect in the RA is not permissible. In this context, Order No. 1/32/87-JA, dated the 18th December, 1991 of the Central Administrative Tribunal, Principal Bench, given under Appendix I of the CAT Rules of Practice, is extracted as under:

“In supersession of the Order of the Chairman No. 1/32/87-JA, dated 1.3.1988 and in exercise of the powers and in exercise of the powers conferred by sub-section (6) of Section 5 of the Administrative Tribunals Act, 1985, I hereby authorise all the Members of the Central Administrative Tribunal to function as a Bench consisting of a Single Member and exercise the jurisdiction, powers and

authority of the Tribunal in respect of classes of cases specified in the Schedule, with effect from 1.1.1992, subject to the following procedure:-

(1) that the case does not involve validity of any statutory provision or interpretation of any of the provisions of the Constitution;

(2) that it is open to either party to submit to the Single Member before the matter is taken up for admission or for final hearing, that it may be placed before a Bench of two Members. If such a request is made at the outset, the Single member shall direct that the case be placed before an appropriate Bench of two Members. Once the case is taken up, no such request shall be entertained at any subsequent stage of the proceedings for admission or final hearing, as the case may be.

Explanation.—(i) The party not making the request at the stage of admission shall not be precluded from making such a request when the case is taken up for final hearing.

(ii) The stage of admission would also cover cases which may be finally disposed of with the consent of parties at the admission stage.

(iii) Notwithstanding anything contained in the previous paragraphs if at any stage of the proceedings it appears to the Single Member that the case is of such a nature that it ought to be heard by a Bench of two members, he may refer it to the Chairman to transfer it to a bench of two members.”

Thus, having not raised an objection at the time of submission, but adducing the same in the RA, would stand invalid in view of the rule stated *supra*.

6. Submissions of the learned counsel through their respective pleadings at length were considered and a detailed order was passed. All the grounds stated in the review application have been gone into in detail. There is no self-evident error. Besides, the subject of recovery comes under the jurisdiction of

the Single Member. Therefore, the contention of the applicant raised in the RA in this regard, is incorrect.

7. Besides, a plea for review, unless the first judicial view is manifestly distorted, is like asking for the moon. A forensic defeat cannot be avenged by an invitation to have a second look, hopeful of discovery of flaws and reversal of result. [Northern India Caterers (India) Ltd. v. Lt. Governor of Delhi, (1980) 2 SCC 167]. The review also does not fall under any of the categories prescribed by the Apex Court in the case of State of W.B. vs Kamal Sengupta (2008) 8 SCC 612, which are as under:-

35. The principles which can be culled out from the above noted judgments are:

(i) The power of the Tribunal to review its order/decision under Section 22(3)(f) of the Act is akin/analogous to the power of a civil court under Section 114 read with Order 47 Rule 1 CPC.

(ii) The Tribunal can review its decision on either of the grounds enumerated in Order 47 Rule 1 and not otherwise.

(iii) The expression “any other sufficient reason” appearing in Order 47 Rule 1 has to be interpreted in the light of other specified grounds.

(iv) An error which is not self-evident and which can be discovered by a long process of reasoning, cannot be treated as an error apparent on the face of record justifying exercise of power under Section 22(3)(f).

(v) An erroneous order/decision cannot be corrected in the guise of exercise of power of review.

(vi) A decision/order cannot be reviewed under Section 22(3)(f) on the basis of subsequent decision/judgment of a coordinate or larger Bench of the tribunal or of a superior court.

(vii) While considering an application for review, the tribunal must confine its adjudication with reference to material which was available at the time of initial decision. The happening of some subsequent event or development cannot be taken note of for declaring the initial order/decision as vitiated by an error apparent.

(viii) Mere discovery of new or important matter or evidence is not sufficient ground for review. The party seeking review has also to show that such matter or evidence was not within its knowledge and even after the exercise of due diligence, the same could not be produced before the court/tribunal earlier.

8. Based on the above observations of the Hon'ble Supreme Court, there are no qualified grounds which warrant a review. Facts of the case, in all respects and the rules prevailing, have been reckoned and on merits, the OA was dismissed. Hence, there is no merit in the review application and is accordingly dismissed, in circulation. No order as to costs.

(B.V. SUDHAKAR)
MEMBER (ADMN.)

Dated, the 19th day of July, 2019

evr