

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

RA/021/00029/2019

In

OA/021/0614/2017

Date of Order: 06.09. 2019

Between:

Yogendra Babu Sharma,
S/o Late Shri R.K.Sharma,
Aged about : 50 years,
Occ : Executive Engineer, 85 D,
Indira Nagar, Gachibowli,
Hyderabad – 500032.

... Applicant

And

1. Union of India, rep. by Secretary,
Department of Personnel and Training,
North Block, New Delhi – 110 001.
2. The Secretary,
Ministry of Water Resources, RD & GR,
Government of India,
Sharam Shakti Bhawan,
Rafi Marg, New Delhi – 110 001.
3. The Chairman,
Central Ground Water Board,
Bhujal Bhawan, NH-IV,
Faridabad – 121 001.
4. The Director Administration,
Central Ground Water Board,
Bhujal Bhawan, NH-IV,
Faridabad – 121 001.
5. The Regional Director,
Central Ground Water Board,
Southern Region, GSI post,
Bandlaguda, Hyderabad – 500 068.

6. The Assistant Executive Engineer and H.O.O.,
Central Ground Water Board,
Division-IX, GSI Post,
Bandlaguda, Hyderabad – 500 068. ... Respondents

Counsel for the Applicant ... Mrs. Rachana Kumari, Advocate
Counsel for the Respondents ... Mrs. Megha Rani Agarwal, Addl. CGSC

CORAM:

Hon'ble Mr. B.V. Sudhakar, Member (Admn.)

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

2. The RA is filed seeking review of the judgment delivered by this Tribunal in OA 614 of 2017, dt. 25.06.2019. The operative portion of the verdict is as under:

“8. The applicant, as per the details and the records submitted, has gone to Oxford University to pursue research work in Geography and Environment. Before he left for Oxford University on 10.10.2007, his application for foreign deputation was under examination. The respondents informed the applicant that the decision in regard to foreign deputation would be intimated, as soon as it is taken. In the meanwhile based on a VIP reference, the applicant's case was considered under partial funding for foreign study. He was granted US \$25000 as financial assistance. The amount is released under three heads namely tuition fees, living expenses and air fare. The tuition fee was remitted to the Oxford University. Later, the applicant got waiver of the tuition fee. There being a provision to grant living expenses upto the extent of US \$ 14400 further funds of US \$9373 were released to the applicant, so that total amount released was US \$ 14400. Besides a sum of Rs.39,152/- was granted towards air fare. The applicant has been insisting that instead of releasing US\$ 14400 as living expenses, the respondents could release the entire amount under the head tuition fee towards living expenses. Respondents stated that there is no such provision under the rules to release the funds beyond the limit. Nevertheless, respondents have taken up the issue with DOP&T, but it was declined. For release of the said funds applicant signed a bond wherein the condition stipulated was that, if applicant does not complete the research work undertaken, he should return the financial assistance granted. It so happened that with regard to supervision of his work there were certain difficulties experienced on his getting admitted in the Oxford University. The issue went on and the respondents were not aware of the same until it was communicated vide applicant's letter dated 25.02.2013. Due to the complication that arose at Oxford University, the applicant could not complete his Doctorate and he had to return to India in 2013. The applicant being aggrieved over the issue has filed a case in the High Court of Justice at UK, without informing the respondents. The applicant contends that he has to be necessarily given foreign deputation orders, since he has gone to UK for pursuing Research work, as he was given to understand that such orders are likely to be issued by the respondents. As can be seen from the record, respondents have clearly communicated to the applicant that his request

for study on foreign deputation basis was under consideration and he will be intimated as and when decision is taken. Besides, the respondents have also brought on record that they do not have any scheme for funding studies on foreign deputation. Even to take up the request of the applicant with the competent authority for studies abroad on foreign deputation basis, it has to be necessarily routed through proper channel, which was at the first instance, not done by the applicant. The same on receipt through proper channel has to be placed before the Committee of Secretaries and thereafter, if approved, the foreign deputation orders will be given. In respect of the applicant the said procedure was not followed. Besides, for funding of foreign studies, a separate budget has to be maintained after projecting and seeking approval of the relevant Ministry. The Ministry in which the applicant is working, there was no such scheme nor funds available under the relevant head. Nevertheless, on receiving a VIP reference partial funding was approved under the condition that the applicant shall complete the course within the time stipulated and in case he does not, the funds granted shall be refunded. As the applicant failed to complete the course, respondents have ordered recovery. The respondents are not at fault for the applicant failing to complete the degree at Oxford University. On the contrary, they have supported the applicant by finding a way through partial funding. Even while doing so, they have granted the maximum of US \$14400 under the living fee head. Applicant insisting that he should get more for living expenses, when there is no provision under the rule, is unreasonable to say the least. The applicant also initiated legal proceedings in regard to his study abroad. The respondents also informed that the University is unwilling to permit him to continue to his thesis. Hence it is clear that the mistake lies with the applicant. He did not complete his studies, as was expected of him and as per the terms and conditions stipulated in the bond respondents have initiated action. Respondents tried to accommodate the interest of the applicant to the extent possible. Applicant trying to rub off his mistake on to respondents is impermissible as per Hon'ble Supreme Court judgement in **A.K.Lakshmi pathy v. Rai Saheb Pannalal H.Lahoti Charitable Trust, (2010) 1 SCC 287** "they cannot be allowed to take advantage of their own mistake and conveniently pass on the blame to the respondents."

9. The observation of the Hon'ble Supreme Court in Rafiq Masih case (supra) does not apply to the case of the applicant, since it is on a different footing altogether. Applicant was granted financial assistance to complete his research work at Oxford University. The applicant executed a bond undertaking to repay the funds granted, if he fails to complete the degree/doctorate research. In fact, as per Hon'ble Supreme Court judgement in **High Court of Punjab & Haryana v. Jagdev Singh in Civil Appeal No.3500 of 2006 dated 29.07.2016**, when a bond is given, the applicant is duty bound to repay the same to the Government. Applicant failed to complete his studies. As per conditions of the bond he is not entitled to retain the funds which attain the character of excess payment. Applicant was put on prior notice to return as per bond executed. Further, the judgement of the Principal Bench of this Tribunal in O.A.2735/2010 dated 11.08.2011 on which the applicant is banking is not relevant since facts and circumstances of the cited cases are different and not relevant.

10. Before parting it need to be adduced that the tax payer money it was invested in sending the applicant abroad for higher studies, so that he can return and contribute to the organization and in the process to the Nation. Being a senior officer it was expected of him to accomplish the objective for which he was sent abroad, come what may, which we as Indians are known for and are proud for. Sadly in the case of the applicant it was not seen.

11. To conclude, the Tribunal thus finds no reason to intervene on behalf of the applicant. The OA is devoid of merit. Hence the OA is dismissed. There shall be no order as to costs."

3. 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.

4. The contentions made by the applicant in the RA have been gone through and the observations in the judgment are based on the facts and materials submitted by the applicant as well as the respondents. Taking the sum and substance of the submissions made by either side, the judgment in the OA has been delivered. Except some typographical mistakes such as, the date in 1st line in para 2 page 3 of the order, which may be read as "06.03.2008" instead of "06.02.2008" and the words in para 3, page 5 of the order i.e. "loan of Rs.20,00,000/- and that the same is evidenced by the voucher dated 25.11.2011 of the State Bank of India, enclosed to the OA" which may be read as "loan of more than Rs.20,00,000/- and that the same is evidenced by the vouchers of the State Bank of India filed as Annexure A-16 to the OA", there is no error apparent on the face of the record. Applicant in RA is emphasizing that certain aspects have not been mentioned in the operative part of the judgment. Tribunal has considered all the aspects raised in the respective pleadings and mentioned only those relevant to the issue in question.

5. Besides, the scope for review is limited in a review application unless there is a self evident error. In the present case, this Tribunal does not find any worthwhile permissible grounds to review the judgment.

6. Further, 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.

7. Thus, based on the aforesaid circumstances and the law laid down by the Hon'ble Supreme Court, RA is devoid of merit and hence, merits dismissal and is accordingly dismissed, in circulation. No order as to costs.

Registry is directed to issue necessary corrigendum to the extent observed in para 4 supra.

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

Dated: the 06th September, 2019

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