

**CENTRAL ADMINISTRATIVE TRIBUNAL  
JODHPUR BENCH**

...

**Review Application No. 290/00006/2019**  
(Original Application No.290/00063/2017)

Date of order : 23.08.2019

**CORAM:**

**HON'BLE MRS. HINA P.SHAH, MEMBER (J)**

Pradhuman Singh son of Late Shri Jethu Singh, aged about 26 years, Resident of 12/23 Ashok Colony, Magra Punjla, Jodhpur.

...Applicant

(By Advocate: Shri Manoj Bohra)

Versus

1. Bharat Sanchar Nigam Limited, A Govt. of India enterprises, Harish Chandra Mathur Land, Janpath, New Delhi-110 001 – through Director.
2. Chief General Manager, Telecom, Rajasthan Telecom Circle, C-Scheme, Sardar Patel Marg, Jaipur
3. Assistant General Manager (Recruitment & Establishment), Telecom, Rajasthan Telecom Circle, C-Scheme, Sardar Patel Marg, Jaipur.
4. General Manager, Telecommunication, Subhash Nagar, Pal Road, Jodhpur

...Respondents

**ORDER (By Circulation)**

This Review Application is filed u/s 22(3)(f) of the Administrative Tribunals Act, 1985 for reviewing the order dated 4.12.2018 passed in OA No.290/00063/2017-

Pradhuman Singh vs. BSNL and Ors. by which the claim of the applicant for compassionate appointment was rejected.

Not satisfied with the above order dated 4.12.2018, the applicant has filed DB Civil Writ No.2061/2019. The said Writ Petition was dismissed by the Hon'ble High Court as not pressed vide order dated 27.2.2019 observing that :-

"1. Learned counsel for the petitioner states that on 21.4.2016 BSNL revised the scheme pertaining to compassionate appointment by revising the weightage points. The order rejecting petitioner's application for being granted appointment on compassionate basis is dated 19.2.2016. The pleadings before the Tribunal and the impugned order would show that whereas petitioner was staking a claim on a policy dated 20.01.2010 issued by the Government of India, Ministry of Communication and IT, Department of Posts, stand of BSNL was that said policy could not apply to BSNL because it had an independent policy dated 27.6.2007. The petitioner lost before the Tribunal because on the pleadings of the parties the Tribunal correctly took the view that weighted points have to be as per BSNL policy dated 27.6.2007.

2. Faced with the aforesaid counsel for the petitioner seeks leave to withdraw the writ petition so that the petitioner can file an application seeking review before the Tribunal and place reliance upon the policy of the BSNL which was framed in April 2016 with a prayer that petitioner's case should be directed to be re-reconsidered in the light of said policy decision.

3. Granting liberty as prayed for the petition is dismissed as not pressed."

2. Now in the present Review Application the applicant has prayed as under:-

"It is, therefore, most respectfully prayed that the misc. (review) application filed by the applicant may kindly be accepted and allowed and while quashing of order dated 19.02.2016 (Annex.A/1 to the OA), the respondents may kindly be directed to reconsider the case of the applicant in the light of amended scheme

and allowed the Original Application filed by the applicant.

Any other appropriate order or direction, which this Hon'ble Tribunal considers just and proper in the facts and circumstances of this case, may kindly be passed in favour of the applicant. "

3. It is noted that the Review Application is filed beyond the period prescribed under the rules, but in view of the observations made by the Hon'ble High Court, the RA is considered on merit.

4. I have gone through the Review Application. It appears that by way of filing the present Review Application, the applicant seeks to re-appreciate the evidence and thereby come to a different conclusion, which is beyond the scope of review. I do not find any error or mistake (except the typographical mistake in para 15), which can be said to be apparent on the face of record. While deciding the matter, this Tribunal observed that the applicant has failed to establish any illegality or irregularity in awarding the marks to the applicant as per the Policy Guidelines for appointment on compassionate grounds for BSNL dated 27.6.2007, therefore, the impugned order was found just and proper. So far as the revised scheme of the BSNL dated 21.4.2016 is concerned, it was neither the case

of the applicant in the OA nor the said scheme was on record while deciding the matter. Even otherwise, the impugned order dated 19.2.2016 was issued prior to the date of the revised scheme. Now applicant cannot seek review for correction of the view taken earlier or for rehearing of the matter. The Bench has already adjudicated the matter and did not find any illegality in the order dated 19.2.2016. If the averments of the applicant in the present Review Application is taken into consideration, it will amount to re-hearing of the matter on merit.

5. The Hon'ble Apex Court in the case of **State of West Bengal and Ors. vs. Kamal Sengupta and Anr.,** reported in (2008) 8 SCC 612 in paragraph 22 has laid down parameters upon which an order can be reviewed, which is reproduced as under : -

"22. The term "mistake or error apparent" by its very connotation signifies an error which is evident per se from the record of the case and does not require detailed examination, scrutiny and elucidation either of the facts or legal position. If an error is not self-evident and detection thereof requires long debate and process of reasoning, it cannot be treated as an error apparent on the face of the record for the purpose of Order 47 Rule 1 CPC or Section 22(3)(f) of the Act. To put it differently an order or decision or judgment cannot be corrected merely because it is erroneous in law or on the ground that a different view could have been taken by the court/tribunal on a point of fact of law. In any case, while exercising

the power of review, the court/tribunal concerned cannot sit in appeal over its judgment/decision."

6. The scope of review has also been considered by the Hon'ble Apex Court in Review Petition (Crl.) No.453 of 2012 in Writ Petition (Crl.) 135 of 2008 in the case of Kamlesh Verma vs. Mayawati and Ors. vide judgment dated 8<sup>th</sup> August, 2013, wherein in paragraphs 13,14 & 15, the Hon'ble Apex Court has held as under:-

13) In a review petition, it is not open to the Court to re-appreciate the evidence and reach a different conclusion, even if that is possible. Conclusion arrived at on appreciation of evidence cannot be assailed in a review petition unless it is shown that there is an error apparent on the face of the record or for some reason akin thereto. This Court, in Kerala State Electricity Board vs. Hitech Electrothermics & Hydropower Ltd. & Ors., (2005) 6 SCC 651, held as under:

"10. ....In a review petition it is not open to this Court to reappreciate the evidence and reach a different conclusion, even if that is possible. Learned counsel for the Board at best sought to impress us that the correspondence exchanged between the parties did not support the conclusion reached by this Court. We are afraid such a submission cannot be permitted to be advanced in a review petition. The appreciation of evidence on record is fully within the domain of the appellate court. If on appreciation of the evidence produced, the court records a finding of fact and reaches a conclusion that conclusion cannot be assailed in a review petition unless it is shown that there is an error apparent on the face of the record or for some reason akin thereto. It has not been contended before us that there is any error apparent on the face of the record. To permit the review petitioner to argue on question of appreciation of evidence would amount to converting a review petition into an appeal in disguise."

14) Review is not re-hearing of an original matter. The power of review cannot be confused with appellate power which enables a superior court to correct all errors committed by a subordinate court. A repetition of old and overruled argument is not enough to re-open concluded

adjudications. This Court, in *Jain Studios Ltd. vs. Shin Satellite Public Co. Ltd.*, (2006) 5 SCC 501, held as under:

"11. So far as the grievance of the applicant on merits is concerned, the learned counsel for the opponent is right in submitting that virtually the applicant seeks the same relief which had been sought at the time of arguing the main matter and had been negated. Once such a prayer had been refused, no review petition would lie which would convert rehearing of the original matter. It is settled law that the power of review cannot be confused with appellate power which enables a superior court to correct all errors committed by a subordinate court. It is not rehearing of an original matter. A repetition of old and overruled argument is not enough to reopen concluded adjudications. The power of review can be exercised with extreme care, caution and circumspection and only in exceptional cases.

12. When a prayer to appoint an arbitrator by the applicant herein had been made at the time when the arbitration petition was heard and was rejected, the same relief cannot be sought by an indirect method by filing a review petition. Such petition, in my opinion, is in the nature of "second innings" which is impermissible and unwarranted and cannot be granted."

15) Review proceedings are not by way of an appeal and have to be strictly confined to the scope and ambit of Order XLVII Rule 1 of CPC. In review jurisdiction, mere disagreement with the view of the judgment cannot be the ground for invoking the same. As long as the point is already dealt with and answered, the parties are not entitled to challenge the impugned judgment in the guise that an alternative view is possible under the review jurisdiction."

7. Viewing the matter in the light of the above ratio of the Hon'ble Apex Court, I find no merit in the averments made in this Review Application.

8. During perusal of pleadings, it is noted that a typographical mistake in the date of the impugned order i.e. 19.6.2016 has occurred in the last para of the order of this Tribunal dated 4.12.2018. The said typographical

mistake has not been pointed out in this Review Application, but since it is a typographical mistake which is apparent on the face of record, therefore, the Review Application is allowed to the extent that the date i.e. 19.06.2016 mentioned in second line of para 15 of the order of the Tribunal dated 4.12.2018 shall be read as "19.02.2016".

9. The Review Application is disposed of accordingly by circulation.

**(HINA P.SHAH)**  
**JUDL. MEMBER**

R/