

**CENTRAL ADMINISTRATIVE TRIBUNAL
JODHPUR BENCH**

...

Review Application No. 290/00009/2019
(Original Application No.290/00267/2018)

Date of order : 26.09.2019

CORAM:

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

Ashok Bhati s/o Late Shri Sayara Ram, aged 36 years, R/o Pori, Vill. Kaghmala, Teh. Raniwara, Distt. Jalore

...Applicant

(By Advocate: Shri K.K.Shah)

Versus

1. The Union of India through the Secretary, Ministry of Communications, Department of Posts, New Delhi.
2. The Chief Post Master General, Rajasthan Circle, Jaipur.
3. The Post Master General, Rajasthan Western Region, Jodhpur.
4. The Director, Postal Services, Rajasthan Western Region, Jodhpur
5. The Superintendent, Head Post Office, Sirohi.

...Respondents

ORDER (By Circulation)

This Review Application is filed for reviewing the order dated 6.9.2019 passed in OA No.290/00267/2018-Ashok Bhati vs. Union of India and Ors. by which the impugned order dated 7.8.2019 was quashed and the respondents were directed to pass appropriate order in the matter.

2. In the Review Application the case set up by the applicant is that after final hearing of the case, the Tribunal mentioned in the open court that the OA is allowed with direction to consider the case of the applicant and he should be given priority since the case pertains to the year 2009. In the first round of litigation, the Tribunal directed the respondents to pass a detailed speaking order as to the manner in which the matter was considered by the CRC and the basis on which it arrived at the conclusion that the applicant did not deserve appointment on compassionate grounds as compared to those who had been selected for compassionate appointment. Accordingly, the respondents passed the speaking order dated 7.8.2018 which was challenged in OA No.267/2018 but it did not contain details of any other person considered along with the applicant as only one case of the applicant was considered and there was no other candidate seeking compassionate appointment. With the facts available on record no speaking order in terms of observation of the Tribunal in the first round of litigation as well as in the present OA could be passed as no other candidate was considered for appointment on compassionate grounds. When the Tribunal observed that the case is of the year 2009 and the

respondents have filed replies taking different stands which the Tribunal believed and passed the order in the first round of litigation, therefore, it is stated that this Tribunal even in the present OA has issued same direction to the respondents without even mentioning that the case of the applicant was to be reconsidered and to be accorded priority as his case is of 2009.

3. I have gone through the Review Application and the order dated 6.9.2019 passed in OA No. 267/2018.

4. In the OA the matter was heard in the presence of both the parties and thereafter the same was reserved for orders on 27.8.2019. The case was not decided on 27.8.2019, but the decision was pronounced on 6.9.2019. Therefore, the averment made in this Review Applicant that the court has mentioned in the open court that the OA was allowed with direction to consider the case of the applicant and should be given priority since the case pertains to 2009, cannot be accepted. After perusal of the pleadings of the Review Applicant, it transpires that the applicant wants review of the order for correction of the view taken earlier or for rehearing of the matter, which is beyond the scope of review.

5. The scope of review has been considered by 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** wherein in paragraphs 22 and 35, the Hon'ble Apex Court has held 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 the 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 or law. In any case, while exercising the power of review, the court/tribunal concerned cannot sit in appeal over its judgment/decision.

35. The principles which can be culled out from the abovenoted 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."

6. Therefore, viewing that matter in the light of the above ratio propounded by the Hon'ble Apex Court, I am of the opinion that the Review Application is liable to be dismissed. Accordingly, the same is dismissed by circulation.

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

R/