

CENTRAL ADMINISTRATIVE TRIBUNAL
PATNA BENCH, PATNA.
RA/050/00033/2019
[OA/050/00245/2019]

Date of order : 24th July, 2019

C O R A M

Hon'ble Shri Jayesh V. Bhairavia, Member [Judicial]
Hon'ble Shri Dinesh Sharma, Member [Administrative]

Bharat Bhushan Bharti, S/o Late Sitab Lal Roy, resident of Village & PO-
Jathuli, Fatuha, District- Patna. Applicant.

By Advocate: - Mr. J.K. Karn

-Versus-

1. The Union of India through the Secretary, Government of India, Ministry of Social Justice & Empowerment, Government of India, Department of Empowerment of the Persons with Disabilities, Pandit Deendayal Antodaya Bhawan, CGO Complex, New Delhi-110003.
2. The Joint Secretary & Chairman, Executive Committee, National Institute for Locomotor Disabilities (Divyangjan), Department of Empowerment of PwDs (Divyangjan), Ministry of Social Justice and Empowerment, Government of India, Pandit Deen Dayal Antodaya Bhawan, CGO Complex, New Delhi-110003.
3. The Director, National Institute for Locomotor Disabilities (Divyangjan), Department of Empowerment of PwDs (Divyangjan), Ministry of Social Justice and Empowerment, Government of India, B.T. Road, Bon-Hooghly, Kolkata- 700090.
4. Smt. Manda Chauhan, Associate Professor/HoD (P.T.) & Inquiry Authority, Pt. Deendayal Upadhyay National Institute for Persons with Physical Disabilities (Divyangjan), Department of Empowerment of Persons with Disabilities (Divyangjan), Ministry of Social Justice & Empowerment, Government of India, 4 Vishnu Digambar Marg, New Delhi-110002.
5. The Officer In-Charge, Composite Regional Centre for Persons with Disabilities (CRC), Sheikhpura (Old Dharmasala) Near IGIMS Nursing College, Patna- 800014.

Respondents.

By Advocate: - None

O R D E R

[Under Circulation]

Per Jayesh V. Bhairavia, Member [J]:- The instant Review Application bearing No. RA/050/00034/2019 has been filed to review the order passed by this Tribunal on 04.06.2019 in OA No. OA/050/00245/2019 on the ground that the decisions rendered by

Hon'ble Supreme Court in case of Union of India vs. Ashok Kacker [1995 SCC [L&S] 374 and Secretary, Ministry of Defence & Ors. Vs. Prabhash Chandra Mirdha have not been considered by CAT, Patna Bench and in that light the respondents have been directed to consider and decide the representations of the applicant. The applicant further pleaded that the last line of para 8 of the order is highly premature at this stage and also the same will be prejudice the independent mind of the authority while taking decision on the representation of the applicant.

2. The Tribunal in its order dated 04.09.2019 passed in OA 245/2019 observed that :-

“8. After going through the pleadings and hearing the learned counsel for the parties, it is clear that the applicant is not participating in the enquiry proceeding on the pretext of Tribunal's order and pendency of his representations. However, we find that there is no such order of this Tribunal to stay the inquiry proceeding except the fair submission of the learned counsel for the respondents during hearing on 18.03.2019 that the said representation will be considered by the Inquiry Officer. Accordingly, without going into the merits of the case, we direct the respondents to consider and decide the representations of the applicant first objectively before concluding the pending disciplinary proceedings against the applicant keeping in view the decisions of the Hon'ble Supreme Court cited by the applicant in this regard within a period of four months from the date of this order. The applicant is also directed to co-operate with the enquiry proceeding. The OA and MA are disposed of accordingly. No order as to costs.”

3. We perused the materials on record. We find that the Apex Court in the State of West Bengal & Ors. Vs. Kamal Sengupta and another, 2008 (3) AISLJ 209, vide para 28 of its judgment has held that the ingredients to be met in case of a review order has to be the following :

- (i) Power of Tribunal to review is akin to Order 47 Rule 1 CPC read with Section 114,

- (ii) Grounds enumerated in Order 47 Rule 1 to be followed and not otherwise,
- (iii) Any other sufficient reason appearing in Order 47 Rule 1 has to be interpreted in the light of other specified grounds.
- (iv) Order cannot be reviewed on the basis of subsequent decision/judgment of co-ordinate larger Bench or superior Court,
- (v) Adjudication with reference to material which was available at the time of initial decision. Subsequent event/development is not error apparent.
- (vi) Mere discovery of new/important matter or evidence not sufficient ground for review. The party has to show that such matter or evidence was not within its knowledge and even after exercise of due diligence, the same could not be produced earlier before the Tribunal.

The Apex Court in **Gopal Singh vs. State Cadre Forest Officers' Association & Ors.**, (2007) 2 SCC (L&S) 819, has held that “a Tribunal cannot sit over its own judgment as an appellate authority.” It cannot write a second order. In a review reasons have to be given why a review is justified. Error apparent on the face of the record has to be justified.

4. Under the circumstances, we find no merit in the Review Application and the same is accordingly dismissed. The MA 449/2019 for condonation of delay in filing RA, is also dismissed.

Sd/-
[Jayesh V. Bhairavia]
Member [Judicial]

mps/-

Concurred and signed
Hon'ble Shri Dinesh Sharma, Member [Admn.] -