

CENTRAL ADMINISTRATIVE TRIBUNAL
PATNA BENCH, PATNA.
RA/050/00018/2018
[OA/050/00374/2017]

Date of order : 30th July, 2019

C O R A M

Hon'ble Shri Jayesh V. Bhairavia, Member [Judicial]
Hon'ble Mr. Dinesh Sharma, Membr [Admn.]

V.N. Ojha Applicant

By Advocate : Shri M.P.Dixit.
Vrs.

Union of India & Ors. ... Respondents

By advocate : Mr. B.K.Choudhary with Shri Sheojee Prasad

O R D E R
[O R A L]

Per Jayesh V. Bhairavia, Member [J]):- The instant Review Application bearing No. RA/050/00018/2018 has been filed to review the order passed by this Tribunal on 13.04.2018 in OA No. OA/050/00374/2017 on the ground that the Tribunal while passing the impugned order as contained in Annexure-R/1 [original order] has failed to appreciate that the basic submission of the applicant. The applicant had challenged the order of inter – division transfer from Patna to Dhanbad as contained in Annexure-A/4 on the ground that the same is wrong, illegal and unsustainable for the reason that the applicant on the date of issue of the impugned order was transferred to Jhajha on 13.06.2017 as contained in Annexure-A/2 on the basis of vigilance recommendation where he joined on 14.06.2017, therefore, the applicant cannot be transferred from Patna to Dhanbad.

2. The Tribunal in its order dated 13.04.2018 passed in OA 374/2017 with OA No. 376/2017 and OA 405/2017 and observed that :-

“20. That the transfer is an incidence of service and the scope of judicial review by the Courts in a transfer matter is very limited has been upheld by several judgments in the Hon'ble Supreme Court, such as Rajendra Singh vs. State of U.P. and Ors. Vide order dated 31.07.2009; State of U.P. vs. Govardhan Lal [(2004) 11 SC 402]; Shilpi Bose and Others vs. State of Bihar & Ors.; N.K.Singh vs. Union of India & Ors. etc. The Hon'ble Supreme Court vide order dated 13.02.2004 in the case of Union of India & Ors. vs. Janardhan Debnath and Anr. Cited in [2004 SCC (L&S) 631] SCC have held that the authorities can transfer an employee If his continuance is prejudicial to the interest of the organization. The judicial review is limited to the grounds of mala fide or violation of any specific provision.

21. In conclusion, these OAs are dismissed. Interim orders are accordingly vacated. No order as to costs."

3. Heard the learned counsel for the parties and gone through the materials on record.

4. 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 established.

5. Under the circumstances, we find no merit in the Review Application and the same is accordingly dismissed.

Sd/-
 [Dinesh Sharma]
 Member [Admn.]

mps/-

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