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Central Administrative Tribunal
Principal Bench
New Delhi

R.A.No.161/2013

in

M.A.No.958/2012

in

O.A.No.2572/2003

This the ~~W~~ ~~H~~ day of October, 2013

Hon'ble Shri V. Ajay Kumar, Member (J)
Hon'ble Shri V. N. Gaur, Member (A)

Dr. Raj Kumar Tiwari & Ors. ... Applicants

(the Applicant No.3 Shri Sanjib Kumar Singh)

Vs.

Union of India & Others ... Respondents

OR D E R (By Circulation)

The present RA is filed under Section 22(3)(f) of the Administrative Tribunals Act, 1985 read with Rule 24 of the CAT (Procedure) Rules, 1987, seeking to review/recall the Order dated 13.08.2013 passed by this Tribunal in MA No.958/2012 in OA No.2572/2003.

2. The scope and power of this Tribunal under Section 22(3)(f) of the Administrative Tribunals Act, 1985 is limited and akin to the power of a Civil Court under Section 114 read with Order 47 Rule 1 of CPC.

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3. The Hon'ble Apex Court in **Ajit Kumar Rath v. State of Orissa and Others** - (1999) 9 SCC 596 held that "power of review available to the Tribunal under Section 22(3)(f) is not absolute and is the same as given to a Court under S. 114 read with Order 47 Rule 1 of CPC.". It has further held that "the scope of review is limited to correction of a patent error of law or fact which stares in the face, without any elaborate argument being needed to establish it" and that "exercise of power of review on a ground other than those set out in Order 47 Rule 1 amounts to abuse of liberty granted to the Tribunal and hence review cannot be claimed or asked merely for a fresh hearing or arguments or corrections of an erroneous view taken earlier."

4. In **Union of India v. Tarit Ranjan Das**, - 2004 SCC (L&S) 160 – the Hon'ble Apex Court held that the scope of review is rather limited and it is not permissible for the forum hearing the review application to act as an appellate authority in respect of the original order by a fresh order and rehearing of the matter to facilitate a change of opinion on merits.

5. In **State of West Bengal and Others v. Kamal Sengupta and Another** – (2008) 8 SCC 612 – the Hon'ble Apex Court after referring to **Ajit Kumar Rath's** case (supra) held that "an order or decision or judgement cannot be corrected merely because it is erroneous in law or

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on the ground a different view could have been taken by the Court/Tribunal on a point of fact or law and while exercising the power of review the Court/Tribunal concerned cannot sit in an appeal over its judgment/decision.”

6. Originally, the applicant(s) assailed the respondents' orders dated 08.03.2000 and 27.08.2002 whereby the pay scale of Rs.8000-10500 under the Assured Career Progression Scheme has been denied to him, by filing the OA No.2572/2003. This Tribunal vide its orders dated 12.05.2004 disposed of the said OA by categorically observing that “after finalization of the Recruitment Rules the respondents shall also consider grant of desired pay scale to the applicants under ACP Scheme”. Thereafter, not only the CP filed by the applicant was disposed of on 25.02.2010 but also the MA 837/2011, filed for execution of the orders of the Tribunal, passed in OA 2572/2003 dated 12.05.2009, was disposed of on 19.10.2011 giving liberty to avail remedy in accordance with rules, in case any grievance subsists after the order passed by the respondents. The respondents have passed an order dated 08.05.2012. Even, thereafter, the applicant chosen to file the MA 958/2012. This Tribunal while disposing of the aforesaid MA No.958/2012 categorically observed as under, which, in our view, would not prejudice the applicant's right to agitate the matter in accordance with law:

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7. After perusing the aforesaid orders of this Tribunal and the order dated 08.05.2012 of the respondents, we are satisfied that the respondents have complied with the orders of this Tribunal and accordingly, the present MA No.958/2012 is dismissed as no further orders are necessary. However, this order shall not preclude the applicants from questioning the order dated 08.05.2012 of the respondents, which was passed in compliance of the orders of this Tribunal dated 19.10.2011, if aggrieved, and, if so advised, in accordance with law. No order as to costs.

(Emphasis added)

7. We have perused the present RA No.161/2013 and its contents mentioned therein and also this Tribunal's Order dated 13.08.2013, passed in MA No.958/2012, and we are of the prima facie view that the review applicant has not made out any case to review of our orders, passed in MA No.958/2012..

8. In view of the aforesaid observations of this Tribunal, the review applicant has failed to show any valid reason while seeking to invoke the review jurisdiction of this Tribunal, and the RA lacks any substance.

9. In view of the above discussion, we do not find any valid ground to entertain the RA and accordingly the same is dismissed.

V. N. Gaur
(V. N. Gaur)
Member (A)

V. Ajay Kumar
(V. Ajay Kumar)
Member (J)

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