1. RA No.262/2005
In
MA Nos.262, 2454 & 2455 of 2005
OA No.2855/2004
With
2. RA No.1/2006
MA Nos. 13, 14 & 2237 of 2006
In
OA No.2970/2003

New Delhi this the 10th day of July, 2009.

Hon'ble Mr. Shanker Raju, Member (J)
Hon'ble Dr. Veena Chhotray, Member (A)

RA No.262/2005

Vijay Singh & 12 others   -Applicants in OA
                                          (Respondents in RA)

(By Advocate Shri Manjeet Singh Reen)

-Versus-

Union of India & Others   · Respondents in OA
                                          (Applicants in RA)
RA No.1/2006

Shri Sahib Singh & Others   -Applicants in OA
                                          (Respondents in RA)

(By Advocate –None)

-Versus-

Union of India & Another   -Respondents in OA
                                          (Applicants in RA)
(By Advocate Shri R.L. Dhawan)

ORDER
Hon'ble Mr. Shanker Raju, Member (J) :

These RAs are disposed of by this common order because are founded on common facts, with an identical question of law.

2.   RA-262/2005 is directed against an order passed in OA-2855/2004 on 21.7.2005 where repelling the objection of the respondents/review applicants as to limitation in view of the

decision of the High Court of Delhi in Civil Writ Petition No.5247/1999 in **Ram Prasad & Ors. v. Shri Ganpati Sharma & Anr.**, decided on 27.10.1999, respondents have been directed to consider grant of arrears of pay to the applicants/respondents in RAs for the period they had worked as casual labours.

3.   RA-1/2006 filed by the respondents in OA is also directed against the order of even date in OA-2970/2003.

4.   These RAs have been kept in abeyance pending decision of the Full Bench on power of the Tribunal to condone the delay in preferring the RAs.   The matters are now being taken up after disposal of the Full Bench matters where a larger Bench of the Tribunal in RA No.185/2006 and batch **Shri Raghava Reddy etc. etc. v. Union of India & Ors.**, decided on 14.5.2009 answered the reference in the affirmative, holding that this Tribunal has power to condone the delay in filing the RA.

5.   Learned counsel of review applicants Shri R.L. Dhawan states that MAs for condonation of delay in preferring the RAs may be allowed, which, in the interest of justice, we allow.   Accordingly the MAs for condonation of delay in filing the RAs are allowed and the delay in filing the RAs is condoned.

6.   On merits, it is stated that as these RAs have been kept in abeyance due to pendency of similar issue before the Full Bench as to whether seeking benefit of arrears as casual labours relating to the period before the establishment of the Tribunal is maintainable under Section 21 (2) of the Administrative Tribunals Act, 1985, according to which this Tribunal has no jurisdiction to deal with

such issue. Learned counsel states that similar matters have been reviewed. He also relies upon the decision of the Apex Court in **State of Haryana v. Chandra Mani**, JT 1996 (3) SC 371. Learned counsel would also highlight Full Bench of the Tribunal, where it is ruled that for want of availability of record such a cause of action is barred by limitation.

7.   On the other hand, while relying upon the decision of the Apex Court in **Karnataka Power Corporation v. Alagendran Export Ltd.**, 2004 (13) SCC 377 stated that review of the decision of the judgment on the ground that a different view has been taken in a subsequent decision is not a good ground for review.

8.   Learned counsel would also contend that the issue regarding limitation when raised before the Tribunal was repelled. As such an erroneous view taken in law cannot be the subject matter of review and does not constitute an error apparent on the face of record. As such, it is stated that the reviews on merits are barred under Section 22 (3) (f) of the Administrative Tribunals Act, 1985.

9.   On careful consideration of the rival contentions of the parties, recently the Apex Court in **State of West Bengal and others v. Kamal Sengupta & another**, (2008) 2 SCC (L&S) 735, as to the power of the Tribunal in review, culled out the following principles:

"35. The principles which can be culled out from the above noted 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 of 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."

10.   In the light of the above, as we find that the Full Bench decision in **Shri Mohan Dass etc. etc. v. Union of India & Anr.,** OA No.2476/2006 and batch, decided on 22.4.2008 is a subsequent decision of a larger Bench is not a ground to review.

11.   Resultantly, these RAs are dismissed. No costs.

Let a copy of this order be kept in RA-1/2006 as well.

(Dr. Veena Chhotray)
Member (A)

(Shanker Raju)
Member (J)

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