

UNDER CIRCULATION

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH ALLAHABAD

Dated: This the 22nd day of October 2019

HON'BLE MR. RAKESH SAGAR JAIN, MEMBER – J

Misc. Review Application No. 330/00036 of 2019
In
Original Application No. 870 of 2011

Smt. Paudhari Devi aged about 43 years, W/o Late Chandrama Ram, C/o Shri Ram Pati Ram, R/o Village Bhupati Pur, P.O. Semaur (Jahurabad), District Ghazipur.

..... Applicant

By Adv: Shri Shubhasis Halder

V E R S U S

1. Union of India through the General Manager, North Central Railway, Allahabad Zone, Allahabad.
2. The Divisional Railway Manager, North Central Railway, Allahabad Division, Allahabad.
3. Senior Divisional Personnel Officer, North Central Railway, Allahabad Division, Allahabad.

..... Respondents

O R D E R

1. This order disposes of the Review Application filed by the applicant seeking review of the order dated 31.07.2019 whereby O.A. No. 870 of 2011 titled Smt. Paudhari Devi v/s Union of India and others was dismissed.
2. In the O.A., it was held that applicant had failed to make out a sufficient cause for granting relief and facts of the case of Ajai Kumar Tewari Vs. Deputy Inspector General of Police & Ors, 2005 (6) AWC 5209 and Ramakant Singh Vs. State of U.P and others, in Special Appeal Defective No. 896 of 2010, decided on 18th April 2011 are different and are distinguishable from the facts of the present case.
3. The applicant seeks review of the order on the ground:
 - (i) The respondent No.2 rejected the claim of applicant vide order dated 02.04.2011, indicating

therein that she is not entitled for the relief as service of her husband has already been terminated on 03.06.2005. However, no such ground was taken either in his counter affidavit filed either in the previous original application No. 681 of 2009 or at any other stages, while making correspondence about considering the case of the applicant and asking to submit final report of Police.

- (ii) The husband of the applicant was found missing from his place of duty w.e.f. 18.02.2003. There is no information about the whereabouts of the husband of the applicant. The applicant as well as his family members were made all effective efforts to trace the whereabouts of applicant but did not find him.
- (iii) The Railway has also not given any information about missing of the whereabouts of applicant's husband.
- (iv) In service jurisprudence printed format of show cause notice, charge sheet is not permissible and should not be entertained.
- (v) As per circulars no charge sheet was issued to the dead person and it is surprising that as to how could a dead man could be served with a show cause notice or a charge sheet or an order of dismissal.

4. The law governing the scope of review has been very succinctly laid down by the Hon'ble Court in:

- I. *Ajit Kumar Rath v. State of Orissa and others, (1999) 9 SCC 596*, a review cannot be claimed or asked for merely for a fresh hearing, or arguments, or correction of an erroneous view taken earlier. That is to say, the power of review can be exercised only for correction of a patent error of law or fact which stares in the face without any

elaborate argument being needed for establishing it. Any other attempt, except an attempt to correct an apparent error, or an attempt not based on any ground set out in Order 47 of the Code of Civil Procedure, would amount to an abuse of the liberty given to the Tribunal under the Act to review its judgment.

- II. *Union of India v. Tarit Ranjan Das*, 2004 SCC (L&S) 160, the scope for review is rather limited, and it is not permissible for the forum hearing the review application to act as an appellate court in respect of the original order, by a fresh order and rehearing the matter to facilitate a change of opinion on merits.
- III. *Inder Chand Jain(Dead) Through Lrs, Vs.Motilal (Dead) Through Lrs. Reported in (2009) 14 SCC 663*, It is beyond any doubt or dispute that the review court does not sit in appeal over its own order. A rehearing of the matter is impermissible in law or pronounced, it should not be altered. It is also trite that exercise of inherent jurisdiction is not invoked for reviewing any order.
- IV. Review is not appeal in disguised in *Lily Thomas Vs. Union of India*. The power of review can be exercised for correction of a mistake but not to substitute a view. Such powers can be exercised within the limits of the statute dealing with the exercise of power. The review cannot be treated like an appeal in disguise."

5. Keeping in mind the principles laid down by the Hon'ble Apex Court in the above decisions, I have considered the claim of the review petitioner to find out whether a case has been made out by respondents for review of the order dated 31.07.2019 whereby O.A. No. 870 of 2011 titled *Smt. Paudhari v/s Union of India and others* was dismissed.

6. I have gone through the records of OA No. 870/2011 and of the present R.A. It has been averred in application by the applicant that the Tribunal has failed to appreciate the materials available on

record, judgments cited as well as the contentions raised by him. It is a settled law that a review is by no means an appeal in disguise whereby an erroneous decision is reheard and corrected, but lies only for patent error. The appreciation of evidence/ materials on record, being fully within the domain of the appellate court, cannot be permitted to be advanced in the review petition. In a review petition, it is not open to the Tribunal to re-appreciate the evidence/materials and reach a different conclusion, even if that is possible. Conclusion arrived at on appreciation of evidence/materials and contentions of the parties, which were available on record, cannot be assailed in a review petition, unless it is shown that there is an error apparent on the face of the record or for some reason akin thereto. The applicant has not shown any material error, manifest on the face of the order under review dated 31.07.2019, which undermines its soundness, or results in miscarriage of justice. If the applicant is not satisfied with the order passed by this Tribunal, remedy lies elsewhere. The scope of review is very limited. It is not permissible for the Tribunal to act as an appellate court.

7. Through this review application, the review applicant wants to re-open the entire issue afresh, which is not permissible in review. Review is permissible if there is an error of procedure apparent on the face of the record. The order was passed after hearing both the parties and I find no error apparent on the face of record.
8. Once an order has been passed by this Tribunal, a review thereof must be subject to the rules of the game and cannot be lightly entertained. A review of a judgment is a serious step and resort to it is proper only where a glaring omission or patent mistake or grave error has crept in earlier by judicial fallibility. A mere repetition of old and over-ruled arguments, a second trip over covered ground or minor mistakes of inconsequential import are obviously insufficient, as held by the Hon'ble Supreme Court in *Sow Chandra Kanta And Another vs Sheik Habib*, [AIR 1975 SC 1500].

9. In the light of what has been discussed above, I do not find that the review application is covered by the aforementioned ground to justify a review of the order dated 31.07.2019.
10. I do not find any valid ground to interfere. Thus, the review application is dismissed. No order as to costs.

**(RAKESH SAGAR JAIN)
MEMBER-J**

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