

**CENTRAL ADMINISTRATIVE TRIBUNAL
JODHPUR BENCH**

...

Review Application No. 290/00012/2019
(Original Application No.290/00287/2013)

Date of order : 25.10.2019

CORAM:

**HON'BLE MRS. HINA P.SHAH, MEMBER (J)
HON'BLE MS. ARCHANA NIGAM, MEMBER (A)**

Ugam Singh Sodha S/o Shri Kishan Singh R/o Plot No.91, Section-7, New Power House Road, Jodhpur-342015. Presently posted as Tech-II, T.No.10446, Shop No.14, Carriage Workshop N.W. Railway, Jodhpur.

...Applicant (in the OA)

Versus

1. Union of India through the General Manager, North Western Railway, Malviya Nagar, Jawahar Circle, Jaipur-302001
2. The Chief Works Manager, North Western Railway, Jodhpur-342001.
3. The Senior Personnel Officer, North Western Railway, Jodhpur-342001.
4. Sh. Shiv Prasad Purohit, Tech-II, T.No.11087, Shop No.8, Carriage Workshop, North Western Railway, Jodhpur.
5. Sh. Sunil Kumar Tak, Tech.-III, T.No.11004, Shop No.11, Carriage Workshop, North Western Railway, Jodhpur.
6. Sh. Bhoma Ram Meena, Tech-II, T.No. 11557, Shop No.8, Carriage Workshop, North Western Railway, Jodhpur.
7. Sh. Subhash Kumar Yadav, Tech.II, T.No.11387, Shop No.12, Carriage Workshop, North Western Railway, Jodhpur.
8. Sh. Raj Kumar Meena (ST) Tech-II, T.No.11436, Shop No.18, Carriage Workshop, North Western Railway, Jodhpur

9. Sh. Hari Singh, Tech.II Ticket No.11467, Shop No.12, Carriage Workshop, North Western Railway, Jodhpur.
10. Shri Ganga Ram, Tech-II, Ticket No. 11010, Shop No.14, Carriage Workshop, NW Railway, Jodhpur.

...Respondents (in the OA.)

(By Kamal Dave, counsel for resp. Nos. 1 to 3)

ORDER (By Circulation)

The present Review Application has been filed by the review applicants, who were official respondents in the OA, for reviewing/recalling the order dated 20.9.2019 passed in OA No.287/2013-Ugam Singh Sodha vs. Union of India and Ors.

2. Perused the Review Application and the documents annexed thereto. From perusal of the pleadings made in the Review Application, it appears to us that the review applicants want re-hearing of the matter on which findings have already been given by this Tribunal in the aforesaid order. If the pleadings made by the applicants in the Review Application are considered, it would touch the merit of the case, which is beyond the scope of review.

3. The scope of review has been considered by the Hon'ble Apex Court in the case of **State of West Bengal**

and Ors. Vs. Kamal Sengupta and Anr., reported in **(2008) 8 SCC 612** wherein in paragraphs 22, the Hon'ble Apex Court has held as under :-

22. The term "mistake or error apparent" by its very connotation signifies an error which is evident per se from the record of the case and does not require detailed examination, scrutiny and elucidation either of the facts or the legal position. If an error is not self-evident and detection thereof requires long debate and process of reasoning, it cannot be treated as an error apparent on the face of the record for the purpose of Order 47 Rule 1 CPC or Section 22(3)(f) of the Act. To put it differently an order or decision or judgment cannot be corrected merely because it is erroneous in law or on the ground that a different view could have been taken by the court/tribunal on a point of fact or law. In any case, while exercising the power of review, the court/tribunal concerned cannot sit in appeal over its judgment/decision.

4. The scope of review has also been considered by the Hon'ble Apex Court in Review Petition (Crl.) No.453 of 2012 in Writ Petition (Crl.) 135 of 2008 in the case of Kamlesh Verma vs. Mayawati and Ors. vide judgment dated 8th August, 2013, wherein in paragraphs 13, 14 & 15, the Hon'ble Apex Court has held as under:-

13) In a review petition, it is not open to the Court to reappreciate the evidence and reach a different conclusion, even if that is possible. Conclusion arrived at on appreciation of evidence 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. This Court, in Kerala State Electricity Board vs. Hitech Electrothermics & Hydropower Ltd. & Ors., (2005) 6 SCC 651, held as under:

"10.In a review petition it is not open to this Court to reappreciate the evidence and reach a different conclusion, even if that is possible. Learned counsel for the Board at best sought to impress us that the correspondence exchanged between the parties

did not support the conclusion reached by this Court. We are afraid such a submission cannot be permitted to be advanced in a review petition. The appreciation of evidence on record is fully within the domain of the appellate court. If on appreciation of the evidence produced, the court records a finding of fact and reaches a conclusion that conclusion 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. It has not been contended before us that there is any error apparent on the face of the record. To permit the review petitioner to argue on question of appreciation of evidence would amount to converting a review petition into an appeal in disguise."

14) Review is not re-hearing of an original matter. The power of review cannot be confused with appellate power which enables a superior court to correct all errors committed by a subordinate court. A repetition of old and overruled argument is not enough to re-open concluded adjudications. This Court, in *Jain Studios Ltd. vs. Shin Satellite Public Co. Ltd.*, (2006) 5 SCC 501, held as under:

"11. So far as the grievance of the applicant on merits is concerned, the learned counsel for the opponent is right in submitting that virtually the applicant seeks the same relief which had been sought at the time of arguing the main matter and had been negated. Once such a prayer had been refused, no review petition would lie which would convert rehearing of the original matter. It is settled law that the power of review cannot be confused with appellate power which enables a superior court to correct all errors committed by a subordinate court. It is not rehearing of an original matter. A repetition of old and overruled argument is not enough to reopen concluded adjudications. The power of review can be exercised with extreme care, caution and circumspection and only in exceptional cases.

12. When a prayer to appoint an arbitrator by the applicant herein had been made at the time when the arbitration petition was heard and was rejected, the same relief cannot be sought by an indirect method by filing a review petition. Such petition, in my opinion, is in the nature of "second innings" which is impermissible and unwarranted and cannot be granted."

15) Review proceedings are not by way of an appeal and have to be strictly confined to the scope and ambit of Order XLVII Rule 1 of CPC. In review jurisdiction, mere disagreement with the view of the judgment cannot be the ground for invoking the same. As long as the point is already dealt with and answered, the parties are not entitled to challenge the impugned judgment

in the guise that an alternative view is possible under the review jurisdiction.”

5. Thus, viewing the matter in the light of the ratio decided by the Hon’ble Apex Court in the aforesaid cases, we do not find any apparent error or ground for reviewing our order dated 20.9.2019. Therefore, the Review Application is dismissed by circulation.

**(ARCHANA NIGAM)
ADMV. MEMBER**

**(HINA P.SHAH)
JUDL. MEMBER**

R/