

Union of India And Ors Vs R. S. Prajapati

Court: Central Administrative Tribunal Allahabad, Bench

Date of Decision: Jan. 18, 2019

Acts Referred: Code of Civil Procedure, 1908 – Order 47 Rule 1

Hon'ble Judges: Rakesh Sagar Jain, J

Bench: Single Bench

Advocate: Ajay Singh

Final Decision: Dismissed

Judgement

1. This order disposes of the Review Application filed by the respondents seeking review of the order dated 10.09.2015 whereby O.A. No. 595/2011

titled Dr. R.S.Prajapati v/s Union of India and others was allowed.

2. In the O.A., applicants were given the relief of being awarded interest on delayed payment of his retiral benefits by way of order dated 10.09.2015,

of which the respondents (Union of India) seek a review.

3. The applicant seeks review of the order on the ground:

1) Because despite respondent pleading contributory negligence of applicant, interest @ 18 % is not sustainable;

2) Delay in payment of retiral benefits was not intentional or deliberate but occurred to inter-office correspondence;

3) If order not reviewed, it would raise multiplicity of un-necessary litigation.

4. I have heard and considered the arguments of learned counsels for the parties and gone through the material on record.

5. It is settled law that review jurisdiction is available only on the grounds prescribed under Order XLVII Rule 1 of the Code of Civil Procedure, which

contains only three grounds $\tilde{A}\phi\tilde{a}, \neg$

(i) mistake or error apparent on the face of record;

(ii) discovery of new and important matter or evidence, which, even after exercise of due diligence, was not within the knowledge of the review

petitioner or could not be produced by him at the time when the order sought to be reviewed was passed; and

(iii) for any other sufficient reason.

6. 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.

Ã, It is also trite that exercise of inherent jurisdiction is not invoked for reviewing any order.

IV. Review is not appeal in disguise. In *Lily Thomas Vs. Union of India*, It follows, therefore, that 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.Ãçâ,-â€‹

7. Keeping in mind the principles laid down by the HonÃçâ,-â„çble Apex Court in the above decisions, I have considered the claim of the review petitioner

and find out whether a case has been made out by respondents for review of the dated 10.09.2015 whereby O.A. No. 595/2011 titled Dr.

R.S.Prajapati v/s Union of India and others.

8. I have gone through the records of OA No. 595/2011 and of the present R.A. 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 applicants have not shown any material error, manifest on the face of the order under

review dated 15.05.2018, which undermines its soundness, or results in miscarriage of justice. If the respondents-review (petitioners) are 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.

9. Through this review application, the review applicants want 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 all the points

were discussed in the judgment which is again taken by the applicant in the review application, as such, found no error apparent on the face of record.

10. 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 reluctant 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, through different counsel, of old and over-ruled arguments, a second trip over ineffectually 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].

11. Learned counsel for the respondents seeking review has placed reliance upon United India Insurance Co. Ltd. v/s Patricia Jean, AIR 2002 SC

2607 to argue that when the rate of interest was disputed it was reduced by the Hon'ble Apex Court. However, the interest was reduced in an

appeal. Looking to the scope of a review application as discussed above, the interest cannot be reduced by way of this review application.

12. In the light of what has been discussed above, I do not find that the review application is covered by the aforementioned grounds to justify a

review of the order dated 10.09.2015.

13. I do not find any valid ground to interfere. Thus, the review application is dismissed. No order as to costs.