

CENTRAL ADMINISTRATIVE TRIBUNAL  
CHANDIGARH BENCH  
CHANDIGARH

R.A. No.060/00012/2017& Decided on: 14.03.2017  
MAs 060/00314/2017,  
060/00313/2017 &  
060/00361/2015

Coram: HON•BLE MR. JUSTICE M.S. SULLAR, MEMBER (J)  
HON•BLE MRS. RAJWANT SANDHU, MEMBER (A)

1. Surinder Kumar, HRMS No. 200401316, age about 35 years, s/o Sh. Om Parkash, presently posted as Accounts Officer in Circle Telecom Training Centre, BSNL, Main Telephone Exchange, Sector • 13, Urban Estate, Kurukshetra (Haryana) -136118.

2. All India Graduate Engineer Telecom Officers Association, registered at Office No. 4 and 5, Near Sethi Hospital, Bawal Chowk, Rewari (Haryana) • 123401 through Surinder Kumar Authorized Signatory.

•••.Applicants

Argued by: None Versus

1. Bharat Sanchar Nigam Limited, Corporate Office, 3rd Floor, Bharat Sanchar Bhawan, Harish Chandra Lane, Janpath, New Delhi -110001, through its Chairman Cum Managing Director.
2. Bharat Sanchar Nigam Limited, Circle Office Haryana Telecom No. 107, Mahatma Gandhi Road, Ambala Cantonment • 133001 through its Chief General Manager.
3. Union of India through its Secretary to Govt. of India, Ministry of Communications and Information Technology, Department of Telecommunications, Government of India, Room No. 210, Sanchar Bhawan, No. 20, Ashoka Road, New Delhi • 110001.
4. Secretary to Govt. of India, Ministry of Heavy Industries and Public Enterprises, Department of Public Enterprise, Government of India, Block No. 14, CGO Complex, Lodhi Road, New Delhi -110003.

•••Respondents/Review Applicants

Argued by: Mr. K.K. Thakur, Advocate

Order(Oral)

BY HON•BLE MR. JUSTICE M.S. SULLAR, MEMBER (J)

1. Tersely, the facts and material, which needs a necessary mention for the limited purpose of deciding the instant Review Application (R.A.) filed by the respondents/review applicants, and emanating from the record is that, the Original Application (O.A) No. 060/00361/2015 filed by applicant Surinder Kumar & All India Graduate Engineer Telecom Officers Association, was decided after hearing the Ld. counsel for the parties, and the respondents were directed to issue necessary presidential directive qua revised pay scales of E1A and E2A of Respondent No. 1- BSNL, pursuant to OM dated 26.11.2008 (Annexure A-1), Presidential Directive dated 27.01.2009 (Annexure A-2) and BSNL's order dated 05.03.2009 (Annexure A-3) (therein), vide order dated 22.08.2016 (Annexure RA-1) by this Tribunal.

2. Instead of complying with the indicated directions, the respondents/Review Applicants filed the present application for reviewing the order dated 22.08.2016 (Annexure RA-1) on the ground that there appears to be some confusion due to which the aforesaid directions came to be issued for issuance of Presidential directive which amounts to allowing of the O.A. itself on merits. Their advocate had only stated that the matter is pending for consideration with the concerned authority and a time bound direction can be granted to take a decision on either side. There was no ad-idem for issuance of Presidential directive, as recorded in the order. On the basis of the aforesaid ground, the review applicants seek review of the order (Annexure RA-1) passed by this Tribunal, in the manner indicated hereinabove.

3. Having heard learned counsel for the review applicants, having gone through the record with his valuable assistance and after considering the entire matter, we are of the considered view that, as no ground to review the matter is made out so the instant R.A. deserves to be dismissed for the reasons mentioned herein below.

4. As indicated hereinabove, the main ground pleaded to review the order (Annexure RA-1) passed by this Tribunal, is that there appears to be some confusion due to which the aforesaid direction came to be issued as their advocate had only stated that the matter is pending consideration with the same authority and a time-bound direction can be issued to take a decision on either side. It is not a matter of dispute that this Tribunal has only directed the respondents to take a decision qua the revised pay scales of E1A and E2A of Respondent No. 1 - BSNL, pursuant to OM dated 26.11.2008 (Annexure A-1), Presidential Directive dated 27.02.2009 (Annexure A-2) and BSNL's order dated 05.03.2009 (Annexure A-3) (therein), by passing an order/issuing Presidential directive in this regard and nothing else was decided against the review applicants. The pleaded plea of some confusion in the mind of the review applicants is not at all a ground to review the order. Therefore, no ground, much less cogent, to review the order (Annexure RA-1) is made out.

5. What cannot possibly be disputed here is that the earlier order can only be reviewed if the case squarely falls within the legal ambit of review and not otherwise. Order 47 Rule 1 CPC read with Section 22(3)(f) of the Administrative Tribunals Act, 1985 regulates the provisions of review of the orders. According to the said provision, a review will lie only when there is discovery of any new and important matter or evidence which, after the exercise of due diligence was not within his knowledge or could not be produced by the review applicant seeking the review at the time when the order was passed or made on account of some mistake or error apparent on the face of the record. It is now well settled principle of law that the scope for 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 and re-hearing of the matter to facilitate a change of opinion on merits. The reliance in this regard can be placed on the judgments of the Hon'ble Supreme Court in cases of Parsion Devi and Others Vs. Sumitri Devi and Others (1997) 8 SCC 715, Ajit Kumar Rath Vs. State of Orissa (1999) 9 SCC 596. Union of India Vs. Tarit Ranjan Das (2003) 11 SCC 658 and Gopal Singh Vs. State Cadre Forest Officers' Association & Others (2007) 9 SCC 369.

6. An identical question came up to be decided by Hon'ble Apex Court in case State of West Bengal and Others Vs. Kamal Sengupta and another (2008) 8 SCC 612. Having interpreted the scope of review and considering the catena of previous judgments mentioned therein, the following principles were culled out to review the orders:-

- (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. •

7. Meaning thereby, the original order can only be reviewed if case strictly falls within the domain of Order 47 Rule 1 CPC read with Section 22(3)(f) of the Administrative Tribunals Act, 1985 and not otherwise, which is totally lacking in this case.

8. As indicated hereinabove, in the instant R.A., the review applicants have neither pleaded nor urged any error on the face of record warranting a review of the order dated 22.08.2016 (Annexure RA-1). Hence, we are of the considered opinion that the applicants have filed the instant R.A. on speculative and unsustainable ground, which deserve to be dismissed, in the obtaining circumstances of the case.

18. In the light of the aforesaid reasons, as there is no merit, the MAs and RA are dismissed. All concerned be informed accordingly.

(RAJWANT SANDHU)  
MEMBER (A)

(JUSTICE M.S. SULLAR)  
MEMBER (J)

14.03.2017

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