

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL,
MUMBAI**

**REVIEW APPLICATION NO.10 of 2024
In
ORIGINAL APPLICATION NO.101 OF 2024**

DISTRICT: Solapur

Shri Appasaheb S. Tondase,)
Age: 56 yrs, Occ: Naib Tahasildar (under -)
Suspension), office of the Sub-Divisional)
Officer's Office, Pandharpur, Dist. Solapur)
R/at Sant Peth, Bhai Bhai Chowk,)
Pandharpur, Dist. Solapur 413 304.)...**Applicant**

VERSUS

1. The State of Maharashtra, through the Addl.)
Chief Secretary, Revenue and Forest Dept.)
Madam Kama Road, Hutatma Rajguru)
Chowk, Mantralaya, Mumbai 400 032.)
2. The Divisional Commissioner, Pune Division)
Vidhan Bhavan, Pune 411 001.)..**RESPONDENTS**

Smt. Punam Mahajan, learned Advocate for the Applicant.

Smt. Kranti Gaikwad, learned Presenting Officer for the Respondents.

CORAM : Shri Ashutosh N. Karmarkar, Member (J)

DATE : 16.10.2024

J U D G M E N T

1. This is an application for review of judgment and order dated 10.07.2024 in O.A. No.101/2024 and for allowing the said Original Application.

2. The Applicant has filed O.A.No.101/2024 for quashing of suspension order dated 27.09.2023. The said application was partly allowed and direction were given to review the suspension. The Applicant was kept under suspension from 18.08.2023.

3. Learned Advocate for Applicant has relied on the judgements passed by this Tribunal in O.A.No.1138/2023, O.A.No.1072/2023 as well as W.P. No.6304 of 2023 while arguing O.A.No.101/2024. Those citations are not referred to by the Applicant which were pertaining to settled position of law. So, there is error apparent on the face of record. The judgment passed in O.A.No.101/2024 is contrary to settled position of law.

4. The Respondents have not filed Affidavit in Reply. According to learned P.O. the Tribunal has passed order in O.A.101/2024 after going the relevant record produced by the parties. The Applicant was in jail for 27 days. Then the Hon'ble High Court has granted him bail. The charge sheet in D.E. was served upon him on 29.01.2024. Therefore, the impugned order is proper.

5. Learned Advocate for Applicant submits that as per settled position, the charge sheet in D.E. needs to be given within 90 days on the date of suspension. So, observations in Para No.6 of the impugned order are incorrect. Secondly, the judgments passed by the same Member (A) relied upon by Applicant during arguments have not been considered while passing judgment in O.A.No.101/2024. Actually, the facts in case of **Kiran Anant Lohar V/s State of Maharashtra & Other in O.A.No.1138/2023** were identical.

6. Learned PO has submitted as per contents in their Affidavit in Reply.

7. The impugned judgment shows that citations relied upon by the Applicant are referred in Para No.3 of the judgment.

8. It appears that Applicant in O.A.No.101/2024 has prayed for quashing of suspension order. The Tribunal has partly allowed the said O.A. and directed to review suspension order. Now, the Applicant has prayed for allowing O.A.No.101/2024. So, it appears that Applicant wants to get the order of quashing of suspension by way of such Review Application.

9. It is settled that review proceeding has to be strictly confined to the ambit and scope of Order 47, Rule 1 of CPC. In exercise of jurisdiction under Order 47 of CPC, it is not permissible that the matter to be reheard and erroneous view to be corrected. The recital of application reveals that Applicant is seeking different order.

10. So far as the aspect of review is concerned, the judgment of the Hon'ble Supreme Court in **(State of West Bengal Vs. Kamal Sengupta & Anr.) 2008 (8) SCC 612**, decided on 16.06.2008 would be helpful, wherein the Hon'ble Supreme Court has laid down well settled principles which are as under: -

“28. 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.”

It is clear from the said judgment that erroneous decision cannot be corrected in guise of exercise of powers of review.

11. Learned Advocate for Applicant has submitted that observations in Para No.6 are incorrect. So, the Applicant wants to suggest that erroneous order came to be passed. The remedy is available to the Applicant to challenge the said impugned order, if he is not satisfied on several ground including that of non-consideration of citations referred during argument.

12. Under such circumstances, the Review Application cannot be allowed. It needs to be rejected. Hence, the following order:-

ORDER

- (A) Review Application is dismissed.
- (B) No order as to costs.

Sd/-
(Ashutosh N. Karmarkar)
Member (J)

Place: Mumbai

Date: 16.10.2024

Dictation taken by: V.S.Mane

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