

Present:- Mr. Nipun Vashisht, Advocate, for the applicant.

The writ petition was dismissed vide detailed judgment dated 10.5.2018. The same was directed against the imposition of punishment of removal from service as well as the rejection of the appeal against the said order.

Letters Patent Appeal No.1116 of 2018, was filed against the aforementioned judgment, which was dismissed as withdrawn with liberty to file a review application. Thus, the present review application has been filed.

Learned counsel for the review applicant submits that the judgment dated 10.5.2018, is erroneous as the ground of violation of principles of natural justice in as much as the applicant was not given adequate opportunity to produce his evidence, was not argued, even though, the same was pleaded in the writ petition. He accordingly submits that an error apparent on the face of record has crept into the judgment and the same should be reviewed.

To substantiate his plea, learned counsel for the applicant has drawn my attention to the record of the enquiry, a photocopy of which has been handed over during the course of arguments as the same has not been annexed with the writ petition. The same is retained on record as Ex. A. A perusal thereof shows that on 27.12.2014, the delinquent employee was required to produce defence evidence, but time was taken by him to do the needful. Accordingly, the enquiry was adjourned to 3.1.2015. On

the adjourned date, the enquiry could not be held as the Enquiry Officer was busy in some other engagement and the proceedings were adjourned to 10.1.2015. On the said date, the applicant-delinquent employee did not appear nor did he produce his defence evidence and thus, the enquiry was closed by the Enquiry Officer.

The contention of learned counsel for the applicant that the applicant-delinquent employee was never informed that 10.1.2015 was the next date before the Enquiry Officer, cannot be accepted for the reason that the enquiry proceedings record very specifically that the Presenting Officer and the charged employee were informed of the adjourned date i.e. 10.1.2015 on 3.1.2015 itself. The officiating incumbent, Mr. Pradeep Kumar also told the Enquiry Officer that the applicant-delinquent employee was informed a day earlier as well. Thereafter, the Enquiry Officer himself called the applicant-delinquent employee and sent a text message also but there was no response to either of them. Under the circumstances, the Enquiry Officer had no option but to close the enquiry proceedings.

That apart, non-raising of a particular argument is not sufficient grounds for review as it would not result in error apparent on the face of record. Further, there is delay of 331 days in filing the present review application and no satisfactory explanation has been given therefor. All that has been stated is that delay has been caused as the applicant was involved in availing his legal remedies and on account of financial crunch. Neither of these reasons is satisfactory as between the date of dismissal of aforementioned LPA and the date of filing the review

application, the applicant could not have been involved in availing any other conceivable legal remedy. The excuse of financial crunch also does not deserve to be accepted as had this been actually the case he would not have preferred a Letters Patent Appeal but could have sought review of the detailed judgment dated 10.5.2018 itself in the first instance.

The review application is thus, rejected both on merits as well as on grounds of delay.

(SUDHIR MITTAL)
JUDGE

22.8.2019
Ramandeep Singh