

Bench

**CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH: BANGALORE
REVIEW APPLICATION NO.79/2019 IN ORIGINAL APPLICATION
NO.170/00823/2016**

DATED THIS THE 05th DAY OF MARCH, 2020

HON'BLE DR.K.B.SURESH, JUDICIAL MEMBER

HON'BLE SHRI C.V.SANKAR, ADMINISTRATIVE MEMBER

Smt.Ramani Krishnan
D/o. Late K.Krishnan
Aged about 57 years
Senior Social Security Assistant
Now illegally removed from service)
R/# 43/44, 8th Cross
Markhan Road, Ashoknagar
Bengaluru-560025.

....Applicant

(By Advocate Shri Paanchajanya Assts.)

Vs.

1. The Additional Central Provident Fund
Commissioner and the Appellate Authority
(Karnataka & Goa State)
Kauvery Bhavishya Nidhi Enclave
HMT Main Road, Jalahalli, Bengaluru-13.
2. The Regional Provident Fund
Commissioner-1 and the Disciplinary Authority
Regional Office, No.62, 3rd Cross
Industrial Suburb, Yeshwanthpur II Stage
Bengaluru-22.

...Respondents

(By Advocates Sri K.S.Venkataramana)

ORDER

(PER HON'BLE SHRI C.V.SANKAR, MEMBER (ADMN))

This review application is filed by the applicant seeking review of the order dated 17.10.2019 passed in OA.No.823/2016 by this Tribunal(Annexure-A1) on the ground that the Tribunal failed to appreciate that the enquiry is not conducted in accordance with the rules as the aspect of burden of proof in the departmental enquiry is completely shifted on the applicant, contrary to the settled position of law on the

subject. And the Tribunal did not consider the decisions relied on by the applicant and hence, the order passed in OA.823/2016 requires to be reviewed.

2. The respondents have filed reply stating that the applicant has failed to bring on record error apparent on the face of the record/new material and on the other has filed review application by raising same set of grounds which were already decided by this Tribunal in OA.823/2016 and hence the RA is liable to be dismissed.

3. We have gone through the review application and reply statement. The points raised by the applicant in the review application have already been taken into consideration while passing the order in OA.735/2018 dtd.17.10.2019 by this Tribunal. No additional facts other than what was submitted by the review applicant in the main OA have been cited in the present review application.

4. It is well settled position that review of an order passed by the Administrative Tribunal can be made only on the following circumstances, as enumerated by the Hon'ble Apex Court in *State of West Bengal & others v. Kamal Sengupta and another* (2008) 2 SCC (L&S) 735:

1. 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 CPC.
2. The Tribunal can review its decision on either of the grounds enumerated in order 47 Rule 1 and not otherwise.
3. The expression "any other sufficient reason" appearing in Order 47 Rule 1 has to be interpreted in the light of other specified grounds.
4. 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).
5. An erroneous order/decision cannot be corrected in the guise of exercise of power of review.
6. 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.

7. 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.

8. 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.”

5. Further, we wish to reiterate that a review is not an appeal in disguise as was held by the Hon'ble Apex Court in *Lily Thomas vs. UOI* (AIR 2000 SC 1650). In the above case, the Hon'ble Apex Court held as follows:

‘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. It has been contended by the applicants that the Tribunal has failed to appreciate the materials available on record as well as the contentions raised by them. A review is by no means an appeal in disguise whereby an erroneous decision is heard 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’.

6. It is quite evident that no new point has been brought out by the review applicant other than what had been highlighted while considering the OA. Therefore, we hold that there is absolutely no merit in the review application and the same is liable to be dismissed.

7. Consequently, the RA stands dismissed. No costs.

(C.V.SANKAR)
MEMBER(A)

(DR. K.B. SURESH)
MEMBER(J)

Annexures referred to by the review applicant in RA.No.79/2019:

Annexure-RA1: Order dtd.17.10.2019 in OA.823/2016

Annexures with reply statement:

-NIL-
