

CENTRAL ADMINISTRATIVE TRIBUNAL,
PRINCIPAL BENCH,
NEW DELHI

Miscellaneous Application No. 498 of 2020 in
Review Application No. 29 of 2020 in
Original Application No. 194 of 2015

New Delhi, this the 20th day of February, 2020

CORAM:

Hon'ble Mr. Pradeep Kumar, Administrative Member
Hon'ble Mr. Ashish Kalia, Judicial Member

Subhash Chander, S/o. Om Prakash,
H. No. 712, Parwa Panna, Village & Post Office,
Karala, New Delhi – 110 081. **Review Applicant**

(By Advocate : Ms. Amita Singh Kalkal)

V e r s u s

1. Govt. of NCT., Through its Chief Secretary,
Department of Education, Old Secretariat, Delhi.
2. Delhi Subordinate Service Selection Board,
Through its Secretary, UTCS Building, Vishawas Nagar,
Shadara, Delhi – 110 032.
3. South Municipal Corporation of Delhi,
Dr. S.P.M. Civic Centre, Minto Road, Delhi.
4. Department of Personnel & Training, Through Secretary,
North Block, New Delhi – 110 001. **Respondents**

O R D E R (By circulation)

Per: Ashish Kalia, Judicial Member -

This review application had been filed by the applicant in the OA No. 194 of 2015 which was dismissed by this Tribunal vide Annexure A1 order dated 14.11.2019. The OA was filed by the applicant for the following relief:

“i. allow the present Original Application;

ii. direct the respondents to grant benefit of age relaxation in the upper age limit to the petitioner and direct all consequential benefits given of the applicants in terms of the aforesaid prayer;

iii. quash the rejection notice dated 5.12.2014 in so far as the petitioner has been declared overage;

iv. pass such other order or orders as are deemed fit and proper in the facts and circumstances of the case.

v. Direct DOP&T to grant age relaxation in terms of OM dated 12.11.1987 to all the games and sports being recognized by the Govt. of India;

vi. Quash the Annexure A of the OM dated 4.8.1980 in so far as it restricts the benefit of age relaxation to the games and sports mentioned therein.”

2. This Tribunal after hearing the counsel appearing for the parties and perusing the records dismissed the OA holding that the applicant is not legally entitled to get any age relaxation.

3. This review application is accompanied with MA No. 498 of 2020 seeking condonation of delay of 15 days. There is no provision in the Administrative Tribunals Act, 1985 to condone the delay beyond the period of thirty days in filing the Review Application. Moreover, it is well settled position by the Apex Court decision in *K. Ajit Babu & Ors. v. Union of India & Ors.* - (1997) 6 SCC 473 that the delay in filing review application cannot be condoned. The Apex Court in that case observed:

“.....The right of review is not a right of appeal where all questions decided are open to challenge. The right of review is possible only on limited grounds, mentioned in Order 47 of these Code of Civil Procedure. Although strictly speaking the Order 47 of the Code of Civil Procedure may not be applicable to the tribunals but the principles contained therein surely have to be extended. Otherwise there being no limitation on the power of review it would be an appeal and there would be no certainty of finality of a decision. Besides that, the right of review is available if such an application is filed within the period of limitation. The decision given by the Tribunal, unless reviewed or appealed against, attains finality. If such a power to review is permitted, no decision is final, as the decision would be subject to review at any time at the instance of party feeling adversely affected by the said decision. A party in whose favour a decision has been given can not monitor the case for all times to come. Public policy demands that there should

been to law suits and if the view of the tribunal is accepted the proceedings in a case will never come to an end. We, therefore, find that a right of review is available to the aggrieved persons on restricted ground mentioned in Order 47 of the code of Civil Procedure is filed within the period of limitation.”

4. Moreover, the apex court in *State of West Bengal & Ors. v. Kamal Sengupta & Anr.* - 2008 (2) SCC 735 has enumerated the principles to be followed by the Administrative Tribunals when it exercises the power of review of its own orders under Section 22(3)(f) of the Administrative Tribunals Act, 1985. They 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 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 a 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. By the present Review Application the case put forth by the review applicants is for re-consideration of the factual circumstance of the case which is not envisaged in the principles for review of the order as

enumerated by the apex court in the aforecited dictum. In short, the review applicants seek a re-hearing of the case which is not contemplated under the power of review envisaged under Section 22(3)(f) of the Administrative Tribunals Act, 1985. Further no error apparent on the face of the record could be established by the review applicants.

6. In the light of the above decisions and in view of the facts and circumstances of this case, the review application is not maintainable on account of delay occurred in filing the same. Accordingly, the MA No. 498 of 2020 for condonation of delay is dismissed. Further, we do not find any error apparent on the face of the record which would warrant review of Annexure A1 order. Accordingly the RA is also dismissed.

**(ASHISH KALIA)
JUDICIAL MEMBER**

**(PRADEEP KUMAR)
ADMINISTRATIVE MEMBER**

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