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Central Administrative Tribunal  
Principal Bench, New Delhi.

RA-33/2004 in  
OA-765/2001

New Delhi this the 1<sup>st</sup> day of November, 2004.

Hon'ble Shri V.K. Majotra, Vice-Chairman(A)  
Hon'ble Shri Shanker Raju, Member(J)

Directorate of Education,  
Education Department,  
Old Secretariat,  
Shamnath Marg,  
Delhi.

..... Review Applicant

(through Sh. George Paracken, Advocate)

Versus

Sh. Satya Pal Singh Verma,  
R/o 46/6-B, East Azad Nagar,  
Delhi-51.

.... Respondent

(through Sh. Arun Bhardwaj, Advocate)

Order (Oral)

Hon'ble Shri Shanker Raju, Member(J)

Heard the learned counsel.

2. Although there is delay in filing R.A. but in the interest of justice the same is condoned.

3. This R.A. is filed by the official respondent against our order dated 4.1.2002 whereby order dated 5.12.2000 was quashed. Applicant, who was superannuated, was directed to be stepped up with that of the pay of junior Sh. Chauhan.

4. The aforesaid order was not challenged before the Hon'ble High Court of Delhi and rather the directions were implemented.
5. Sh. George Paracken, learned counsel of the review applicant contends that while the matter was processed, it transpired that junior Sh. Chauhan was only promoted on ad hoc basis and was regularized after the superannuation of the applicant. As such, as per FR 22(a)(1), no stepping up is possible when junior is promoted on ad hoc basis.
6. Shri Paracken states that this fact could not be brought to the notice of the Tribunal at the time of arguments of the case.
7. On the other hand, Shri Bhardwaj, learned counsel of respondent (applicant in OA) strongly rebuts the contentions and states that the present RA is not within the ambit of Section 22 (3)(f) of the Administrative Tribunals Act, 1985. The discovery of new material was within the knowledge of respondents but were not diligent to produce it.
8. It is trite law that in review, we cannot assume the role of Appellate Authority. It is permissible only on the ground of an error apparent on the face of record which does not require long drawn process and on the ground of discovery of new material, which even after due diligence, was not produced by the contending party at the time of arguments.
9. We are supported in our view by the decision of the Apex Court in U.O.I. Vs. Tarit Ranjan Das (2004 SCC (L&S) 160) and Chandra Kanta Vs. Sheikh Habib (AIR 1975 SC 1500).
10. It is also trite law that even if the conclusion arrived at by the Court is erroneous in law, the remedy is not by way of an review as recording different findings would amount to sitting over the judgement as an Appellate forum.

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11. In the above conspectus of the proposition of law, the impugned order has derived stepping up of pay to the applicant only on the ground that vis-à-vis the junior, two stepping ups are not possible. This has been rejected by the Tribunal, with the result the directions were issued.
12. We are also of the considered view that the respondents were very much in the knowledge of ad hoc promotion of the junior to the applicant but yet had not disclosed the same and there was no due diligence in their favour. Having failed to do so, now they are adapting to argue the matter by way of reagitation.
13. Moreover, we find that the directions have been complied with and no appeal has been preferred before the Hon'ble High Court of Delhi. Accordingly, as the review does not lie within the ambit of Section 22(3)(f) of the Act ibid, the same is dismissed. No costs.

S. Raju  
(Shanker Raju)  
Member(J)

V.K. Majotra  
(V.K. Majotra)  
Vice-Chairman(A)

/vv/

1.11.04