

**CENTRAL ADMINISTRATIVE TRIBUNAL  
AHMEDABAD BENCH, AHMEDABAD**

Review Application No.06/2020

In

Original Application No.29/2015

This the 23<sup>rd</sup> day of February, 2021

**CORAM :**

**HON'BLE SHRI JAYESH V. BHAIRAVIA, MEMBER (J)**

**HONBLE DR. A. K. DUBEY, MEMBER (A)**

Govindbhai K. Patel,  
Son of Kanjibhai Patel,  
Age about 60 years,  
At and post Rakhiyana,  
Tal: Mandal,  
Ahmedabad – 382 130.

.....Applicant

(By Advocate Mr.P.H.Pathak)

Vs.

1. Union of India,  
Notice to be served through,  
Chief Postmaster General,  
Gujarat Circle, Khanpur,  
Ahmedabad – 380 001.

2. Senior Superintendent of Post Offices,  
Gandhinagar Division,  
Gandhinagar – 380 303.

.....Respondents

**ORDER (BY IRCULATION)**

**Per Dr A K Dubey, Member (A)**

1. This review application No.06/2020 was filed by the applicant against the order of this Tribunal in OA No.29/2015 passed on 30.09.2020. The prayer of the Review Applicant is :-

“9(A) The Hon’ble Tribunal be please to recall/review final order in OA 29/2015 at Annexure-A1 to this application and grant all the relief prayed for in OA

No.29/2015, in light of the binding decision of Higher Court.

- (B) Any other relief to which the Hon'ble Tribunal deems, fit and proper in the interest of justice together with cost."

2. The Review applicant has made the above prayer on the following contentions:-

- (i) That due to circumstances beyond the control of the applicant i.e. due to covid-19 the advocate of applicant had received order on 9/10/2020 and informed the applicant to collect the papers or to file appropriate proceedings. That it was not possible for the applicant to approach the advocate immediately because of prevailing situation of covid-19 in Ahmedabad. That as per the information given by the advocate, it is difficult to approach office of the Hon'ble Tribunal. Therefore the applicant was advised not to take risk to travel. The family members and the police authorities have also advised applicant not to go out of his residence, particularly looking to the old age of the applicant. That for some times there was curfew in Ahmedabad. Therefore there is delay of few days in filing of the review application. The applicant has file MISC. Application for condonation of delay.
- (ii) The impugned order Annexure-A3 pg.18 is not a speaking order and no explanation can be given by filing reply for that contention the judgment of Hon'ble Supreme Court in case of Mohinder Singh Gill (1978) 2 SCR 772 and a judgment reported in (2016) 1 SCC 724 are relied but the Hon'ble Tribunal referred the judgment on behalf of applicant in written points of argument. That the judgment of Hon'ble Supreme Court referred above in case of Mohinder Singh Gill is lost sight of the Hon'ble Tribunal, it seems that the arguments were heard on 11/09/2020 and the pronouncement was on 30/09/2020. That due to delay in deciding the matter i.e. about 20 days the above facts are lost sight by the Tribunal.
- (iii) It is now settled law that the judgments which are sighted by the party, are required to be dealt with by the court. It is also necessary to give short reasoning about applicability or non applicability of the judgment. The judgment of the Hon'ble High Court reported in 34(1) GLR pg.822. The head note is reproduced here as under:-

*"Judicial practice- it is the duty of the court to referred the authorities cited before it-The authorities cited may be applicable or may not be applicable-even then they will have to be dealt with-otherwise the court would be doing injustice to the party citing the same."*

Therefore the present order in OA 29/2015 to recall and the prayer prayed for in the OA be allowed.

- (iv) The second binding pronouncement sighted of the Division Bench of High Court in LPA 1438/2019 dated 3/7/2000 is also lost sight of.

- (v) Similar is the position of the order passed by the Division Bench dated 17/12/2013, in contempt application 225/2013 dated 17/12/13.
- (vi) The contention about fixation of pay at par with junior Mr.N.K.Illoriya was granted to the applicant after filing of the OA i.e. January 2015, till then the applicant was paid lower wages than his junior. Specifically pointed out in para 4 of the rejoinder and referred in the points of argument also but the said important issue lost sight of.
- (vii) Therefore the present application be allowed in the interest of justice. Copy of final order in OA 29/2015 is Annexed and marked as ANNEXURE-A1 to this application. Copy of the points of argument is annexed and marked as Annexure-A2 to this application.

3. The Review Applicant has also preferred a M.A No.446/2020 for condonation of delay as he could not file the review within the stipulated time due to Covid situation in Ahmedabad.
4. The review is mainly sought on the ground that he relied on the judgment of Hon'ble SC in Mohinder Singh Gill vs. The Chief Election Commissioner of India citation: (1978) 2 SCR 772 and another judgment in (2016) 1 SCC 724) but there were lost sight in the order on OA No.29/2015. Review applicant also contends that pronouncement on 03.07.2020 by the Division Bench of High Court in LPA No.1438/2019 and the order dated 17/12/2013 in Contempt Application No.225/2013 too had been lost sight of. He has also cited the judgment of Hon'ble Gujarat High Court passed in the case of Ramanlal Patel vs. Hina Industries reported in 34 (I) GLR 822 which had quoted that the authorities cited may or may not be applicable but they must be dealt with, otherwise the court would be doing injustice to the party citing the same."
5. The scope for a review application is clearly defined in various orders of the Hon'ble Supreme Court. The Hon'ble Supreme Court in the case of *State of West Bengal & others v. Kamal Sengupta and another* (2008) 3 AISLJ 209 has held that the Tribunal can exercise the powers of a Civil Court in relation to matters enumerated in clauses (a) to (i) of sub-section (3) of Section 22 of

the Administrative Tribunals Act including the power of reviewing its decision. By referring to the power of a Civil Court to review its judgment/decision under Section 114 CPC read with Order 47 Rule 1 CPC, the Hon'ble Supreme Court laid down the principles subject to which the Tribunal can exercise the power of review. At para 28 of the said judgment the Hon'ble Supreme Court culled out the principles which 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 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.”*

6. The Hon'ble Supreme Court in an another judgment in the case of Union of India v/s Tarit Ranjan Das 2004 SCC (L&S) 160 while dealing with the order passed in Review Application at paragraph 13 observed asunder:

*“The Tribunal passed the impugned order by reviewing the earlier order. A bare reading of the two orders shows that the order in review application was in complete variation and disregard of the earlier order and the strong as well as sound reason contained therein whereby the original application was rejected. The scope for review is rather limited and it is not permissible for the forum hearing the review application to act*

*as an appellate authority in respect of the original order by a fresh and rehearing of the matter to facilitate a change of opinion on merits. The Tribunal seems to have transgressed its jurisdiction in dealing with review petition as if it was hearing original application. This aspect has also not been noticed by the High Court."*

7. Bearing in mind the above principles laid down by the Hon'ble Supreme Court, existence of an error on the face of the record is *sine qua non* for review of an order. It is not permissible for the forum to hear the review application to act as an Appellate Authority in respect of the original order by a fresh hearing of the matter to facilitate a change of opinion on merits. We have examined the grounds urged by the review applicant in support of his prayer for reviewing the order and we find that the review applicant has failed to bring out any apparent error on the face of order under review.
8. As far as the contention in the review application about losing sight of the judgments quoted is concerned, the review petitioner's para 3 again places reliance on the judgment of Hon'ble Apex Court in Mohinder Singh Gill vs. Chief Election Commissioner (1978) 2 SCR 772 along with the supporting judgment in (2076) 1 SCC 724). Suffice it to say that para 8 of the order of this Tribunal passed in the OA No.29/2015 clearly indicates that it has not been lost sight of. It is seen that in para 8 and 9 of the order in OA No.29/2015, this Tribunal has considered the main grievance voiced in the OA and it was found to be lacking in merit for the reasons explained therein. In our considered view, the grounds and reasons on which this review application has been moved, are not tenable to warrant a review of the decision in OA No.29/2015.
9. Thus, in view of the above discussion and in light of the law laid down by Hon'ble Apex Court (Supra), the applicant has failed to point out any error much less an error apparent on the face of the record, justifying the exercise of power under sub-clause (f) of sub-section (3) of Section 22 of the

Administrative Tribunals Act, 1985. The review application deserves to be dismissed and accordingly, the same is dismissed.

**A.K.Dubey**  
**(Administrative Member)**

**Jayesh V. Bhairavia**  
**(Judicial Member)**

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