

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH
JABALPUR

- (1) REVIEW APPLICATION NO.203/00010/2020**
(in OA No.203/264/2017)
- (2) REVIEW APPLICATION NO.203/00011/2020**
(in OA No.203/260/2017)
- (3) REVIEW APPLICATION NO.203/00012/2020**
(in OA No.203/268/2017)
- (4) REVIEW APPLICATION NO.203/00013/2020**
(in OA No.203/263/2017)
- (5) REVIEW APPLICATION NO.203/00014/2020**
(in OA No.203/256/2017)
- (6) REVIEW APPLICATION NO.203/00015/2020**
(in OA No.203/266/2017)
- (7) REVIEW APPLICATION NO.203/00016/2020**
(in OA No.203/267/2017)
- (8) REVIEW APPLICATION NO.203/00017/2020**
(in OA No.203/265/2017)
- (9) REVIEW APPLICATION NO.203/00018/2020**
(in OA No.203/261/2017)
- (10) REVIEW APPLICATION NO.203/00019/2020**
(in OA No.203/258/2017)
- (11) REVIEW APPLICATION NO.203/00020/2020**
(in OA No.200/259/2017)
- (12) REVIEW APPLICATION NO.203/00021/2020**
(in OA No.203/257/2017)
- (13) REVIEW APPLICATION NO.203/00022/2020**
(in OA No.203/262/2017)
- (14) REVIEW APPLICATION NO.203/00023/2020**
(in OA No.203/255/2017)

Jabalpur, this Monday, the 7th day of Decemeber, 2020

HON'BLE SHRI RAMESH SINGH THAKUR, JUDICIAL MEMBER
HON'BLE SHRI B.V. SUDHAKAR, ADMINISTRATIVE MEMBER

1. Union of India, Through The General Manager, S.E.C. Rly., Bilaspur Zone, Bilaspur (C.G.) 495004
2. South East Central Railway through the General Manager Bilaspur (CG) 495004
3. Divisional Railway Manager C/o SECR, DRM Office, Fafadih Raipur (CG) 492008

4. Divisional Personnel Officer C/o SECR DRM Office Fafadih
Raipur 492008 **-Petitioners in all RAs**

V e r s u s

Dasarath Aged 57 years S/o Late Suru R/o Qtr. No.C-627 Zone 1
Charoda Bhilai Dist. Durg (CG) 490025

- Respondents in R.A. No.203/10/2020

Devanand Aged 57 years S/o Ravi R/o Qr. No.604 C Zone-I BMY
Charoda Dist. Durg (CG) 490025

- Respondents in R.A. No.203/11/2020

Devanand Aged 57 years S/o Ratiram R/o Ward No.21 Indira
Nagar Near Shukla Aata Chakki BMY Charoda Dist. Durg (CG)
490025

- Respondents in R.A. No.203/12/2020

Ramnath aged 65 years S/o Late Nakhet R/o Sector 11 Zone 2
Balaji Nagar, Khursipar Bhilai Dist. Durg (CG) 490021

- Respondents in R.A. No.203/13/2020

Ramnath Aged 65 years S/o Late Nakhet R/o Sector 11 Zone 2
Balaji Nagar, Khursipar Bhilai Dist. Durg (CG) 490021

- Respondents in R.A. No.203/14/2020

Kislal aged 60 years S/o Late Baratu R/o Behind Indrajeet Kirana
Store Ward No.4 Dadar Charoda PO BMY Dist. Durg (CG) Pin
490025

- Respondents in R.A. No.203/15/2020

Bhaskarudu Aged 63 years S/o K. Rajgopalan C/o Shri J.M.
Lingam Purana Bhilai Post Bhilai 3 Dist. Durg (CG) 490021

- Respondents in R.A. No.203/16/2020

Smt. Revati Karwa Aged 46 years C/o Store 12 Near Shiv Mandir
Bhilai 3 Dist. Durg (CG) 490021

- Respondents in R.A. No.203/17/2020

Suresh Aged 56 yrs S/o Shri Raju R/o Qtr. No.95-D Bhilai-3 Post
Bhilai-3 Dist., Durg (CG) 490021

- Respondents in R.A. No.203/18/2020

Balakram Aged 51 years S/o Late Sadashiv R/o Qtr. No.D-620
Zone 1 Charoda, Bhilai Dist. Durg 490025

- Respondents in R.A. No.203/19/2020

Durga Biswas Aged 43 years W/o Late Shri V.K. Biswas R/o Qtr.
No.102A Railway Colony, Bhilai -3 Post Bhilai 3 Dist Durg (CG)
490021

- Respondents in R.A. No.203/20/2020

Arjun aged 64 years S/o Late Jabar Singh R/o Village Rahendra
bahata PO Malishira, Titlagarh, Dist. Bolangir (Orissa) 767033

- Respondents in R.A. No.203/21/2020

Guha aged 55 years S/o Tijau R/o Qtr No.84-D BMY Charoda
Dist. Durg 490025

- Respondents in R.A. No.203/22/2020

B. Laxmi aged 65 yrs W/o Late B. Krishna Murty R/o Jagdamba
Chowk, Purana Bhilai, Post Bhilai 3, Dist. Durg (CG) 490021

- Respondents in R.A. No.203/23/2020**O R D E R (in circulation)****By Ramesh Singh Thakur, JM-**

These Review Applications have been filed by the petitioners (respondents in O.A.) to review the common order dated 20.11.2019 passed by this Tribunal in Original Application No.203/261/2017 along with other connecting O.As.

2. Since the facts are identical and the issue involved is common, all these Review Applications are being dismissed by this order. The facts of R.A. No.203/00018/2020 are being stated in this order unless otherwise mentioned.

3. The grounds taken by the petitioners for seeking review are that the Tribunal while deciding the O.A. has not passed any order on the application for condonation of

delay filed by the applicant. Further the ground of the petitioner is that there were three categories who have claimed OT allowance period from Feb 2007 to April 2010 namely Fitter Pump Operator Maintainer (FPOM), Valve Operator, Khalasi Helper. Out of 14 applicants 7 were FPOM 4 were Valve Operators and 3 were Helpers and on the basis of the tracing out of another record i.e. the Cadre statement, another glaring anomaly in Annexure R/1 which could not brought into the notice of this Tribunal earlier has been submitted through this application. The OT Register Form A (Annexure A/1) by the subordinate in charge, Senior Section Engineer/Water Supply/BMY who initiated OT Register Form A of the applicant for performance of Overtime, was “shortage of staff”. So this is in total contradiction to the available records i.e. cadre statement of the relevant time period. The next ground is regarding the nature of duties of the petitioner.

4. We have considered the ground putforth in the Review Petition and it is itself clear from the averments

made in Para 9 that the record regarding the cadre statement was not available at the time of hearing of O.A. So it is itself clear that when any documents or any averments are not available with the Tribunal so there is no error apparent on the face of records itself.

5. Regarding preparation of OT claim aspect is concerned, this Tribunal has specifically dealt with the issue in the order itself while holding that the respondents are estopped to take the plea that the lower staff has not taken permission for verification for wrong done on behalf of the respondent-department. Furthermore the question regarding limitation aspect is concerned, the O.A. has been decided on the basis of the judgment passed by the Hon'ble Apex Court in the matter of *Union of India and others* vs. *Tarsem Singh* (2008) 8 SCC 648, *State of Madhya Pradesh and others* vs. *Yogendra Shrivastava* (2011) 1 SCC (L&S) 251; *M.R. Gupta* vs. *Union of India and others* (1995) 5 SCC 628; wherein the Hon'ble Apex Court has held that if there is continuous wrong being

done by the respondents then denial of benefits occurs every month when the salary is paid. So it may be noted that scope of review under the provisions of Order 47 Rule 1 of Civil Procedure Code, which provision is analogous to Section 22 (3) (f) of Administrative Tribunals Act, 1985 is very limited.

6. The power of review available to this Tribunal is the same as has been given to a Court under Section 114 read with Order 47 Rule 1 of the Civil Procedure Code. The apex court has clearly stated in **Ajit Kumar Rath Vs. State of Orissa and others**, (1999) 9 SCC 596 that: “a review cannot be claimed or asked for merely for a fresh hearing or arguments or correction of an erroneous view taken earlier, that is to say, the power of review can be exercised only for correction of a patent error of law or fact which stares in the face without any elaborate argument being needed for establishing it”. This Tribunal can not review its order unless the error is plain and apparent. It has clearly been further held by the apex court

in the said case that: “[A]ny other attempt, except an attempt to correct an apparent error or an attempt not based on any ground set out in Order 47, would amount to an abuse of the liberty given to the Tribunal under the Act to review its judgment”.

7. Hon'ble Supreme Court in the matters of **Meera Bhanja (Smt.) Vs. Nirmala Kumari Choudhury (Smt.)**, (1995)1 SCC 170 referring to certain earlier judgments, observed that an error apparent on the face of record must be such an error which must strike one on mere looking at the record. An error which has to be established by a long-drawn process of reasoning on points where there may conceivably be two opinions can hardly be said to be an error apparent on the face of the record. Where an alleged error is far from self-evident and if it can be established, it has to be established by lengthy and complicated arguments, such an error can not be cured in a review proceeding.

8. It is also settled principle of law that the Tribunal cannot act as an appellate court for reviewing the original order. This proposition of law is supported by the decision of the Hon'ble Supreme Court in the case of **Union of India Vs. Tarit Ranjan Das**, 2004 SCC (L&S) 160 wherein their lordships have held as under:

“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 order and rehearing of the matter to facilitate a change of opinion on merits. The Tribunal seems to have transgressed its jurisdiction in dealing with the review petition as if it was hearing an original application”.

9. Hon'ble Supreme Court in the matters of **State of West Bengal and others Vs. Kamal Sengupta and another**, (2008)2 SCC (L&S) 735 scanned various earlier judgments and summarized the principle laid down therein, which reads thus:

“35. The principles which can be culled out from the above-noted judgments 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 CPC.

(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.”

10. In regard to the Misc. Application filed by the petitioner for condonation of delay, we find that Review Application has been filed by the petitioner (respondents

in O.A.) in the month September 2020 whereas the O.A. has been decided on 20.11.2019. Rule 17(1) of the Central Administrative Tribunal (Procedure) Rules, 1987 clearly provides that no application for review shall be entertained unless it is filed within thirty days from the date of receipt of copy of the order sought to be reviewed. In this regard, the Full Bench judgment of Hon'ble High Court of Andhra Pradesh in the matters of ***G. Narsimha Rao v. Regional Joint Director School Education Warangal and others***, 2005 (4) SLR 720, was cited in the order dated 27.11.2014 of Principal Bench of the Tribunal in MA No.3594/14 (arising out of RA No.216/14). The operative para is reproduced below:

“In view of the decision of the Hon'ble Supreme Court in K. Ajit Babu vs. Union of India and others, (1997) 6 SCC 473 and the decision of the Full Bench of the Hon'ble High Court of Andhra RA 200/00001/2017 (in OA 155/1999) Pradesh in G.Narasimha Rao vs. Regional Director of School Education & others, 2005 (4) SLR 720, which was followed by the Allahabad Bench of the Tribunal in Union of India & others vs. Phool Chandra & others (RA No.19 of 2011), MA No.3594 of 2014, which is an application for condonation of delay, deserves to

be an is accordingly rejected. Consequently, the Review Application also deserves to be rejected as being barred by limitation. Moreover, the review can be made only when there is an error apparent on the face of record or on discovery of any new and important material which even after due diligence was not available. In the present case, no such error could be shown. We also do not find either of the things. There is no scope for entering again into merits of the case. The review cannot be sought merely for a fresh hearing or arguments or correction of erroneous view, if any, taken earlier. If the review applicant is not satisfied with the order passed by this Tribunal, remedy lies elsewhere. The scope of review is very limited. It is not permissible for the Tribunal to act as an appellate court. Therefore, the Review Application is dismissed at the stage of circulation.”

11. In view of the aforesaid decision, Misc. Application filed by the petitioner for condonation of delay is rejected as we do not find any plausible reasons to condone the delay.

12. Resultantly this Misc. Applications along with other MAs filed with other Review Applications are also rejected.

13. Since no error apparent on the face of record has been pointed out by the petitioner in the instant Review

Application, warranting review of the order, in terms of the law laid down by the Hon'ble Supreme Court in the aforementioned cases, the present Review Application along with 13 other RAs are misconceived and are liable to be dismissed.

14. In the result, these 14 Review Applications are dismissed at the circulation stage itself.

(B.V. Sudhakar)
Administrative Member

(Ramesh Singh Thakur)
Judicial Member

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