

CENTRAL ADMINISTRATIVE TRIBUNAL**MADRAS BENCH****MA/310/700/2018 and RA/310/00017/2018 in OA/310/00439/2014****Dated** ,the ^{3rd} day of March Two Thousand Twenty**CORAM :** HON'BLE MR. P. MADHAVAN, Member (J)**HON'BLE MR. T. JACOB, Member (A)**

1.The Union of India rep by the Director General,
All India Radio, Akashvani Bhavan,
Parliament Street,
Prasar Bharathi Corporation, New Delhi - 1.

2.The Station Director,
All India Radio, Chennai 4.

3.The Director,
Doordharshan Kendra, Chennai 5.

....Applicants/Respondents

By Advocate Mr. K. Ramasamy

Vs

E.S.Jayaraman,
Upper Division Clerk,
Office of the Director,
Doordharshan Kendra, Chennai.

....Respondent/Applicant

By Advocate M/s. V. Vijaya Shankar

ORDER

(Pronounced by Hon'ble Mr. T. Jacob, Member (A))

The respondents in the OA have filed the MA 700/2018 for condonation of delay of 196 days in filing the RA. Having regard to the reasons stated in the accompanying affidavit, the MA is allowed.

2. This RA has been filed by the respondents in the OA to review and recall the order passed by this Tribunal in OA.439/2014 dated 26.09.2016. According to the applicants in the RA, the respondent was promoted as UDC vide order dated 25.06.2007 but he did not accept the promotion and as such, he was debarred for further promotion for a period of one year from 30.08.2007 to 29.08.2008. The Department has already implemented the new MACP Scheme which has come into force w.e.f. 01.09.2008 and as such, the erstwhile scheme of ACP cannot be implemented in the case of the applicant which would mean concurrently running of both the scheme simultaneously. Due to the debarment period of one year for not accepting the regular promotion, the respondent became qualified for eligibility for II ACP only on 19.10.2008 instead of 19.10.2007. This Tribunal did not consider the said debarment period of one year and the consequential debarment of further period of one year for completion of the required period of 24 years under the said ACP Scheme.

3. We have considered the RA. An RA can be preferred only when there is an error apparent on the face of the order or when there is an arithmetical mistake crept in the order which has gone unnoticed. The Hon'ble Apex Court in



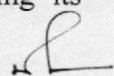
the case of Northern India Caterers Ltd., vs Lt. Governor of Delhi (1980) 2 SCC

167 had held as under:-

A plea for review, unless the first judicial view is manifestly distorted, is like asking for the moon. A forensic defeat cannot be avenged by an invitation to have a second look, hopeful of discovery of flaws and reversal of result.

4. The scope of review lies in a narrow compass as prescribed under order XLVII, Rule (1) of CPC. None of the grounds raised in the RA brings it within the scope and purview of review. It appears that the review applicants is trying to reargue the matter afresh, as if in appeal, which is not permissible. If in the opinion of the review applicants that the order passed by the Tribunal is erroneous, the remedy lies elsewhere. Under the garb of review, they cannot be allowed to raise the same grounds, which were considered and rejected by the Tribunal while passing the order under review. Existence of an error apparent on the face of the record is *sin qua non* for reviewing the order. The review applicants have failed to bring out any error apparent on the face of the order under review.

5. On the power of the Tribunal to review its own order, the Hon'ble Supreme Court has laid down clear guidelines in its judgment in the case of State of West Bengal & others vs. Kamal Sengupta and another (2008 (3) AISLJ 209) stating therein that "the Tribunal can exercise powers of a Civil Court in relation to matter enumerated in clauses (a) to (i) of sub-section (3) of Section (22) of Administrative Tribunal Act including the power of reviewing its



decision.” At Para (28) of the judgment, the principles culled out by the Supreme Court are as under:-

“(i) The power of Tribunal to review its order/decision under Section 22(3)(j) of the Act is akin/analogous to the power of a Civil Court under Section 114 read with order 47 Rule (1) of 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 specific grounds.

(iv) An error is not self-evident and which can be discovered by a long process of reasoning, cannot be treated as an error apparent in the face of record justifying exercise of power under Section 22(2)(f).

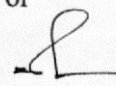
(v) An error order/decision cannot be corrected in the guise of exercise of power of review.

(vi) A decision/order cannot be reviewed under Section 22(3)(f) on the basis of subsequent decision/judgment of a coordinate or a larger bench of the Tribunal or of a superior court.

(vii) A decision/order cannot be reviewed under Section 22(3)(f).

(viii) 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.

(ix) 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 the knowledge and even after the exercise of due diligence the same could not be produced before the Court/Tribunal earlier."

6. The case of the Review applicants do not meet the requirement to justify review of the order in OA.439/2014 dated 26.09.2016.

7. For the reasons discussed in the foregoing paras, We do not find any merit in the RA. Accordingly, the RA is dismissed.