

**CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH**



**Review Application No.021/011/2020
In
Original Application No.021/00390/2020**

HYDERABAD, this the 15th day of December, 2020.

Hon'ble Mr. Ashish Kalia, Judl. Member
Hon'ble Mr. B.V. Sudhakar, Admn. Member

Smt.S.Subbulu W/o S.Sommaiah,
Aged about 45 years, Occ : SAA, Gr. 'C',
O/o Chief Engineer, R & R, Secunderbad,
R/o H.No.8-23/23, Mohan Rao Colony,
Near Panchayati Office,
Balaji Nagar, Shameerpet, R.R.District.

...Applicant

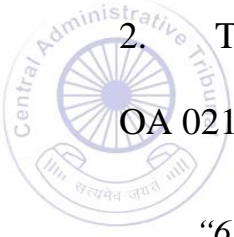
(By Advocate : Mrs. G.Jaya Reddy)

Vs.

1. Union of India Rep by the Secretary,
Ministry of Defence, New Delhi.
2. Engineer-in-Chief E-in-C's Branch,
IHQ of MOD Kashmir House,
New Delhi – 110011.
3. The Chief Engineer,
HQ Southern Command, Pune.
4. The Chief Engineer, R&D
Military Engineer Services Picket,
Secunderabad.
5. The Executive Engineer (SC),
Military Engineer Services Garrison Engineer (Maint),
Exhimala, Indian Naval Academy (Post),
Kannur District, KERALA STATE.

....Respondents

(By Advocate : Mrs. K. Rajitha, Sr. CGSC)

ORDER (IN CIRCULATION)**(Hon'ble Mr. B.V.Sudhakar, Administrative Member)**

2. The RA is filed seeking review of the judgment delivered by this Tribunal in OA 021/00390/2020, dt. 4.09.2020. The operative portion of the order is as under:

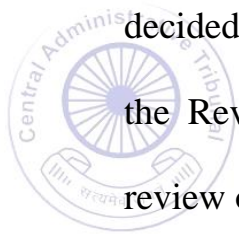
“6. The applicant has been transferred from Hyderabad to Kannur district in Kerala in the usual process and as per the rules and regulations of the respondent's organization. She was allowed to work in and around Hyderabad for nearly two decades after being appointed on compassionate grounds. Besides, after the applicant was transferred to Kannur district in Kerala, she was allowed to be in Hyderabad/ Secunderabad for a period of nearly one year on one ground or the other. The transfer order has been issued in administrative interest. The transfer policy is reported to be followed not only in the case of the applicant but also in respect of other employees of the respondent's organization. The Courts normally do not interfere in transfer matters unless malafides are attributed. The applicant has not come up with any ground to demonstrate that there has been malafide in the issue of the transfer order nor produced any rules, which have been violated. Hence, we do not find any ground to interfere on behalf of the applicant for her retention at Hyderabad. At this stage, learned counsel for the applicant prayed that the applicant may be granted some more time to move over to the new place of posting, in view of the Covid-19 situation, for which, learned Senior Standing Counsel appearing for the respondents vehemently opposed stating that the applicant has already been accommodated on several occasions in the past considering her family circumstances. However, in view of the Corona prevailing in the country and as the transport services have not been restored fully and in particular, keeping in view the fact that her husband is having serious health issues, it would be fair and reasonable that three months time be given to the applicant to prepare and move to the new station. Therefore, the request of the applicant shall be considered by the respondents, by granting her three months time from the date of receipt of this order, to get relieved from Hyderabad and join at Kannur, Kerala.

7. *With the above directions, the O.A. is disposed of with no order as to costs.*

3. As no hearing is considered necessary, the Review Application is being disposed under circulation as per Rule 17(3) of the C.A.T. (Procedure) Rules.

4. The judgment of this Tribunal in the main OA is clear that the Tribunal has very limited scope to interfere in transfer matters unless the transfer order issued is malafide. It is not that the respondents in the OA were not aware of the transfer guidelines, but in the administrative interest, the applicant was transferred after allowing her to be in Hyderabad for nearly two decades. As held by the Hon'ble Apex Court in *S.C. Saxena v. Union of India, (2006) 9 SCC 583*, the applicant has

to join the new place of posting and then represent to the respondents for any relief in regard to the transfer. We have taken the relevant aspects into consideration and decided the issue in the OA. We have also gone through the averments made in the Review Application carefully and we do not find any grounds warranting review of the order in OA.



5. Further, 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. [Northern India Caterers (India) Ltd. v. Lt. Governor of Delhi, (1980) 2 SCC 167]. Further, Hon'ble Apex Court in the case of ***State of W.B. vs Kamal Sengupta (2008) 8 SCC 612*** has held as under:-

“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 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. In view of the above observations and the law laid down by the Hon'ble Supreme Court (*supra*), this Tribunal does not find any reason to review the order passed in OA. RA is accordingly dismissed, in circulation. No order as to costs.



(B.V.SUDHAKAR)
ADMINISTRATIVE MEMBER

(ASHISH KALIA)
JUDICIAL MEMBER

/evr/