



CENTRAL ADMINISTRATIVE TRIBUNAL

CHANDIGARH BENCH

R.A.No.060/00009/2021in
O.A.NO.060/01165/2019

Decided on: 31.03.2021

HON'BLE MS. AJANTA DAYALAN, MEMBER (A)

Adrash Katyal aged about 62 years

D/o Late Sh. Prem Sagar Sekhri

Resident of 45, Anand Vihar, Nanhera Road,

Ambala Cantt (Haryana)-133001.

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Applicant

VERSUS

1. Union of India through General Manager, Northern Railway, Baroda House, New Delhi. Pin-110001.
2. Divisional Railway Manager, Northern Railway, DRM Complex, Ambala Cantt. Pin 133001.
3. Sr. Divisional Personnel Officer, Northern Railway, DRM Complex, Ambala Cantt. Pin 133001.
4. Financial Advisor and Chief Accounts Officer/Pensions, Northern Railway Baroda House, New Delhi-110001.

Respondents



O R D E R (BY CIRCULATION)
HON'BLE MS. AJANTA DAYALAN, MEMBER (A)

First of all, I observe that the scope of review is very limited to the extent of correction of an error apparent on the face of record. An order can only be reviewed if the case squarely falls within the legal ambit of review and not otherwise. Order 47 Rule 1 CPC read with Section 22(3) (f) of the Administrative Tribunals Act, 1985 regulates the provisions of review of the orders. As per this, a review will lie only when there is discovery of any new and important matter or evidence which, after the exercise of due diligence was not within his knowledge or could not be produced by the review applicant seeking the review at the time when the order was passed or made, or on account of some mistake or error apparent on the face of the record.

2. Hon'ble Apex Court in case **STATE OF WEST BENGAL AND OTHERS VS. KAMAL SENGUPTA AND ANOTHER** (2008) 8 SCC 612, has laid down the principles of review for review of the orders as under:-

- (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 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 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."

3. It is, thus, apparent that the original order can only be reviewed if case strictly falls within the domain of Order 47 Rule 1 CPC read with Section 22(3)(f) of the Administrative Tribunals Act, 1985 and not otherwise.

4. In the R.A., the applicant pleads that the counsel could not argue the case due to network failure on the date of final hearing. The widowed daughters are always dependent on their parents. The clarification contained in Annexure A-3 has not been appreciated by the Bench. The applicant was getting Rs.2,400/- per month as return of Employees Own Pension Fund which cannot be termed as family pension. As per 6th Central Pay Commission Report, the minimum family pension is not less than Rs.9,000/-. As per instructions, family pension is admissible in addition to Employees Pension Scheme 1995 and 1971. Thus, small amount received by applicant could not be considered as disability for grant of family pension.

5. I have considered the submissions made in the Review Application which are nothing but an attempt on the part of the applicant to reargue the case all over again which is not permissible.

6. A perusal of the order dated 30.12.2020 will show that the Bench has clearly recorded that the applicant who



is the daughter of the deceased employee was a permanent employee of Air Force School at the time of death of her father in 2008 and also at the time of death of her mother in 2010. She remained in her job till April 2017 and was in receipt of full salary till that time. It was only in April 2017 that she retired from Air Force School. In fact after going through all the orders, the Bench was of the view that the admissibility of the claim is to be determined at the time of death of the deceased government servant or his/her spouse and not thereafter. Placing reliance on para 4 of the office memorandum dated 11.9.2013(Annexure A-16), the Bench recorded that only those children who are dependent and meet other conditions for family pension at the time of death of the government servant or his spouse, whichever is later, are eligible for family pension. It was also recorded that the applicant was not only not dependent on her parents at the time of their death but continued on her job till April 2017. In fact, she is even now in receipt of pension of Rs.2400/- per month as per her employer's letter to the respondent.

7. The applicant has not been able to disclose as to which part of argument her counsel could not address at the time of final argument due to alleged "network failure". There is no affidavit of the counsel himself to substantiate the allegation of "network failure". In the Review Application, the applicant has basically reiterated her submissions already made in the Original Application.



8. The applicant has filed an M.A.No.060/703/2021 for condonation of delay of 41 days in filing the Review Application. It is, inter-alia, claimed that issue has no concern with the third party right as it is "purely a case of stepping up of pay at par to the juniors". There is no issue of stepping up of pay made by him in the O.A. It is, thus, clear that the Review Application has been filed in most casual manner.

9. It is also observed that while the applicant has filed the M.A. for condonation of delay of 41 days, in the R.A. it is stated that the R.A. has been 'filed within limitation period'. These are mutually contradictory. Still, the delay is condoned in view of covid and applicant being senior citizen.

10. On merits, the R.A. is found to be totally misconceived for the reasons stated therein and is dismissed by circulation.

(AJANTA DAYALAN)
MEMBER (A)

Place: Chandigarh
Dated: 31.3.2021

HC*