

**CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH**

No. RA 3 of 2021

OA 390/2020 & OA 303/2020

**Present: Hon'ble Mr. Swarup Kumar Mishra, Member (J)
Hon'ble Mr. T.Jacob, Member (A)**

Bikashranjan Sahoo, aged about 29 years, S/o Bankanidhi Sahoo, At-Itee, PO-Bandhabhuin, Via-Pallahara, Dist-Angul, at present working as Fitter (Skilled) at Ordnance Factory, Badmal, residing in Qr. No. 11266/4th Phase, Type-I, At-Badmal, PS-Saintala, Dist.-Bolangir.

.....Applicant

VERSUS

1. Union of India, represented through the Secretary, Department of Defence, Ministry of Defence, Govt. of India, South Block, DHQ, New Delhi-110001.
2. Chairman, Ordnance Factory Board, 10-A Saheed Khudiram Bose Road, Kolkata-700001.
3. General Manager, Ordnance Factory, Badmal, Dist-Bolangir – 767070.
4. Secretary, Ordnance Factory Board, Section: A/1, 10-A Saheed Khudiram Bose Road, Kolkata-700001.
5. Prasanta Kumar Mishra, aged 44 years, S/o Panchanan Mishra, at present working as Fitter/R & AC(HS-I), Ordnance Factory Badmal, Dist-Bolangir, Odisha-767070.
6. Ajaya Kumar Sahoo, aged about 49 yers, S/o Antaryami Sahoo at present working as Fitter/AC(HS-I), Ordnance Factory, Badmal, Dist.-Bolangir, Odisha-767070.
7. Niranjana Rout, aged about 49 years, S/o Jameswar4 Rout at present working as Fitter/AC(HS-I), Ordnance Factory, Badmal, Dist.-Bolangir, Odisha-767070.
8. Gyanaranjan Khuntia, aged about 44 years, S/o Durga Charan Khuntia, at present working as Fitter/AC(HS-II), Ordnance Factory, Badmal, Dist.-Bolangir, Odisha-767070.
9. Sushila Kumar Behera aged about 43 years, S/o Saranga Behera, At-Lunakua, PO-Jhimani, PS-Paradeep Lock, Dist-Jagatsinghpur at present working in Odisha Ordnance Factory, Badmal Estate, Qr. No. 22327/4th Phase, AT/PO/PS-Badmal, Dist-Bolangir, Odisha, Pin-767070.
10. Purna Chandra Bindhani, aged about 43 years, S/o Late kalandi Bindhani, At-Karadapal,. PO-Bangara, PS-Hatgarh, Dist-Keonjhar, Odisha, Pin-758023 at present Qr. No. 21121 Type II P OPld, At/PO-Odisha Ordnance Factory, Badmal Estate, Dist-Bolangir, Odisha, Pin-767070.
11. Bhajendra Kisku, aged about 53 years, S/o Late Rabana Kisku, At-Sarasabilla, PO-Radha, PS-Udala, Dist-Mayurbhanj at present Qr. No. 21367/5, At/PO-Odisha Ordnance Factory, Badmal Estate, Dist-Bolangir, Odisha, Pin-767070.
12. Tejendra Kumar Singh, aged about 40 years, S/o Pabitra Singh, At-Jujurang, PO-Gokuleswar, PS-Kesinga, Dist-Kalahandi at present Qr. No. 12332/Type P-1, Phase 4th, At/PO-Odisha Ordnance Factory, Badmal Estate, Dist-Bolangir, Odisha, Pin-767070.

(Opp. parties No. 5 to 8 are applicants in OA 290/2020 and opp. parties No. 9 to 12 are applicants in OA 303/2020)

.....Respondents.

For the applicant : Mr.N.Pattnaik, counsel

For the respondents: Mr.G.R.Verma, counsel

Heard & reserved on : 22.2.2021 Order on :23.04.2021

O R D E R

Per Mr.Swarup Kumar Mishra, J.M.

The applicant has filed the present Review Application seeking the following reliefs :

“Under the above mentioned fact and circumstances of the case the petitioner humbly prays to review the order dtd. 22.1.2021 passed in OA No. 290/2020 & OA No. 303/2020 under Annexure-13 observing the grounds taken in the above Review Application and allow the petitioner to join in the said vacant post.

And for which act of kindness the petitioner as in duty bound shall every pray.”

2. The applicant had also applied for the post in question for which the applicants in OA290/2020 and OA 303/2020 appeared. The present review applicant was not a party to the aforesaid OAs, has filed this Review Application for review of the common final order passed on 22.01.2021. The OA was disposed of on 22.01.2021 with the following directions :

“In the circumstances this Tribunal accepts the claim made by the applicants that the authenticity of the certificates in question and the authenticity of the Institute having due approval of the AICTE have not been successfully challenged, the applicants are entitled to reliefs in question. Therefore this Tribunal orders that the result of the applicant in the written examination be declared and they should be considered in accordance with law along with the similarly placed candidates as per the rules governing the field.”

It is the stand of the present review applicant that, he along with other candidates has applied for the Competitive examinations for the post of Chargeman (Tech & Non-Tech)(OTS & Stores) through Limited Departmental Competitive Examination (LDCE) – 2020. It is apprehended by the review applicant that in case the applicants in the OA succeed and become eligible for appointment then the review applicant will be deprived of the opportunity to get selected for the post in question. The review applicant does not know whether the applicant in the OA has secured more marks or less marks than him. Thus it appears that this is a very hypothetical position in which the review applicant has approached this Tribunal expecting that he may be

deprived of the chance of getting selected for the post in question if the said two applicants are ultimately found eligible and selected for the post.

3. We do not know at this stage whether the respondents will ultimately found the applicant in the OA eligible for selection or the said two persons will found their place in the select list for the post. In such hypothetical situation it is too premature on the part of the review applicant to knock at the door of this Tribunal. We are not satisfied that any right of the present review applicant is affected by the disposal of the said two OAs by this Tribunal vide order dated 22.01.2021 since he was not a party to the said OAs.

4. In view of the above the present review applicant has no locus standi to challenge the said order. Besides that present review applicant is not able to satisfy this Tribunal that the final order passed in the OA should be reviewed within the limited scope of review.

5. On merit, it is noticed that the grounds mentioned in the review application to challenge the impugned order dated 22.01.2021 of this Tribunal cannot be said to be mistake or error apparent on the face of the record. There is no apparent error or mistake or any new fact has been brought out, which could not be produced before the Tribunal earlier. The Scope of reviewing an order of the Tribunal is limited to the grounds specified in the Rule 1 of the order 47 of Civil Procedure Code, which states as under:-

“1. Application for review of judgement

(1) Any person considering himself aggrieved-

(a) by a decree or order from which an appeal is allowed, but from no appeal has been preferred,

(b) by a decree or order from which no appeal is allowed, or

(c) by a decision on a reference from a Court of Small Causes,

and who, from the discovery of new and important matter or evidence which, after the exercise of due diligence was not within his knowledge or could not be produced by him at the time when the decree was passed or order made, or on account of some mistake or error apparent on the face of the record or for any other sufficient reason, desires to obtain a review of the decree passed or order made against him, may apply for a review of judgement to the Court which passed the decree or made the order.

(2) A party who is not appealing from a decree or order may apply for a review of judgement notwithstanding the pendency of an appeal by some other party except where the ground of such appeal is common to the applicant and the appellant, or when, being respondent, he can present to the Appellate Court the case on which he applies for the review.

[Explanation.-The fact that the decision on a question of law on which the judgement of the Court is based has been reversed or modified by the subsequent decision of a superior Court in any other case, shall not be a ground for the review of such judgement.]”

6. In the case of **Kamlesh Verma v. Mayawati And Others reported in 2013 AIR SC 3301**, Honb’ble Apex Court has laid down the following principles regarding review of Tribunal’s order as under:-

“18. Review is not rehearing of an original matter. The power of review cannot be confused with appellate power which enables a superior court to correct all errors committed by a subordinate court. A repetition of old and overruled argument is not enough to reopen concluded adjudications. This Court in Jain Studios Ltd. v. Shin Satellite Public Co. Ltd. 2006 5 SCC 501, held as under: (SCC pp. 504-505, paras 11-12)

“11. So far as the grievance of the applicant on merits is concerned, the learned counsel for the opponent is right in submitting that virtually the applicant seeks the same relief which had been sought at the time of arguing the main matter and had been negated. Once such a prayer had been refused, no review petition would lie which would convert rehearing of the original matter. It is settled law that the power of review cannot be confused with appellate power which enables a superior court to correct all errors committed by a subordinate court. It is not rehearing of an original matter. A repetition of old and overruled argument is not enough to reopen concluded adjudications. The power of review can be exercised with extreme care, caution and circumspection and only in exceptional cases.

12. When a prayer to appoint an arbitrator by the applicant herein had been made at the time when the arbitration petition was heard and was rejected, the same relief cannot be sought by an indirect method by filing a *review* petition. Such petition, in my opinion, is in the nature of ‘second innings’ which is impermissible and unwarranted and cannot be granted.”

19. Review proceedings are not by way of an appeal and have to be strictly confined to the scope and ambit of order 47 rule 1 cpc. In review jurisdiction, mere disagreement with the view of the judgment cannot be the ground for invoking the same. As long as the point is already dealt with and answered, the parties are not entitled to challenge the impugned judgment in the guise that an alternative view is possible under the review jurisdiction....”

7. Similarly, in the case of **State of West Bengal And Others v. Kamal Sengupta and another reported in (2008) 8 SCC 612**, it was held by Hon’ble Apex Court as under:

- “(i). The power of the Tribunal to review is akin to order 47 Rule 1 of CPC read with Section 114.
- (ii). The grounds enumerated in order 47 Rule 1 to be followed and not otherwise.
- (iii). “that any other sufficient reasons” 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 the record.
- (v). An erroneous decision cannot be corrected under review.

- (vi). An order cannot be reviewed on the basis of subsequent decision / judgment of coordinate Larger bench or a superior Court.
- (vii). The adjudication has to be with regard to material which were available at the time of initial decision subsequent event / developments are not error apparent.
- (viii). Mere discovery of new / important matter or evidence is not sufficient ground for review. The party also has 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 earlier before the Tribunal.”

8. For the reasons as discussed above, we are of the considered view that no valid ground has been made for reviewing the impugned order dated 22.01.2021 of this Tribunal. The applicant has not been able to show that he has been, if any, aggrieved by the final order passed in the OAs.

9. Therefore, the RA stands dismissed being devoid of merit. There will be no order as to cost.

(T.JACOB)
MEMBER (A)

(SWARUP KUMAR MISHRA)
MEMBER (J)

I.Nath