

## CENTRAL ADMINISTRATIVE TRIBUNAL GUWAHATI BENCH

Review Application No. 040/00001/2021  
(In OA No. 040/00045/2021)

Date of order: This the 25<sup>th</sup> day of March, 2021

**THE HON'BLE SMT. MANJULA DAS, JUDICIAL MEMBER**  
**THE HON'BLE MR. NEKKHOMANG NEIHSIAL, MEMBER (A)**



Sri Rupak Kumar  
Son of Shri Pandey Baleshwar Prasad  
Aged about 48 years  
By Occupation Service Holder  
Working as Law Officer of Lumding Division  
In N.F. Railway, Residing at Railway Quarter  
Number P/212 B, Officers Colony  
Lumding, Hojai, Pin – 782447.

**...Review Petitioner**

By Advocate:      Petitioner in Person

-Versus-

1. The Chairman  
Railway Board, Ministry of Railway  
Rail Bhawan, New Delhi – 110001.
2. The Secretary  
Railway Board, Ministry of Railway  
Rail Bhawan, New Delhi – 110001.
3. The Director  
Finance (Establishment)  
Railway Board, Ministry of Railway  
Rail Bhawan, New Delhi – 110001.
4. The General Manager  
Northeast Frontier Railway (NFR)  
Maligaon, Guwahati – 11, Assam.

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5. The Principal  
Chief Personnel Officer  
NF Railway Maligaon  
Guwahati – 11, Assam.

...Opposite parties

**O R D E R (IN CIRCULATION)**

**NEKKHOMANG NEIHSIAL, MEMBER (A):-**



By this present Review Application, petitioner seeks review of the judgment and order dated 15.02.2021 passed by this Tribunal in O.A. No.040/00045/2021.

2. The Original Application No. 040/00045/2021 was decided on 15.02.2021 dismissing the same as the petitioner was not able to articulate clearly his grievances whether basic educational qualification and experience required for the recruitment can be the basis for antedating his date of appointment for the purpose of granting him the benefits of Old Pension Scheme.

3. We have carefully perused Review Application and the order sought to be reviewed.

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4. Order XLVII, Rule 1, Code of Civil Procedure provides the grounds on which such a prayer for review can be entertained, namely, (i) discovery of new and important matter or evidence which after exercise of due diligence was not within his knowledge or could not be produced by him; (ii) some mistake or error apparent on the face of the record; and (iii) any other sufficient reasons.



5. The law relating to review is well settled as succinctly summarized by the Hon'ble Supreme Court in State of West Bengal and others vs. Kamal Sengupta and another, (2008) 2 SCC (L&S) 735, para 35 of 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.

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- (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. On examination of the matter, we found that the petitioner is basically drawing our attention to the provisions of Rule 45 of Railway Services Pension Rule, 1993. This Rule is basically about adding of qualifying service for superannuation pension and not for other

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purpose. As such, this Rule does not stipulate any provisions for adding of period of experience before joining the service for the purpose of antedating his date of appointment to enable the Govt. employees to get benefits of Old Pension Scheme. The petitioner also has failed to project any other ground which falls under Order XLVII, Rule 1, Code of Civil Procedure. In our considered view the Review Application is not maintainable and liable to be dismissed.



7. Accordingly, Review Application stands dismissed. There shall be no order as to costs.

**(NEKKHOMANG NEIHSIAL)**  
**MEMBER (A)**

**(MANJULA DAS)**  
**MEMBER (J)**

**PB**

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