

**CENTRAL ADMINISTRATIVE TRIBUNAL
LUCKNOW BENCH
(THROUGH VIDEO CONFERENCING)**

Review Application No. 332/00002/2021
In Original Application No. 332/00318/2020

Date of Order: This, the 04th day of October, 2021

HON'BLE MR. A MUKHOPADHAYA, MEMBER (A)

1. Babli Devi, aged about 54 years, wife of Late Mr. Om Prakash, resident of 272/66, Bashiratganj, Subhash Marg, P.S. Naka Hindola, Lucknow.
2. Virendra Pal Singh, aged about 31 years, Son of Late Mr. Om Prakash, Resident of 272/66, Bashiratganj, Subhash Marg, P.S. Naka Hindola, Lucknow .

..Review Applicants

By Advocate: Shri Praveen Kumar Tewari.



VERSUS

1. Union of India, through General Manager, Northern Railway, Baroda House, New Delhi.
2. Chief Works Manager (C&W), Northern Railway, Alambagh, Lucknow.
3. Alka Gautam, aged about 32 years, wife of Late Mr. Mahendra Pratap Singh, Resident of Mohalla Hatim Sarai, Sambal, P.S.- Nakhassa, Sambal, Uttar Pradesh.

.....Respondents

O R D E R (Under Circulation)

This review application has been filed against this Tribunal's order dated 06.01.2021 in OA No. 318/2020. Aggrieved by this order, the review petitioners approached the Hon'ble High Court in Writ Petition No. 11404/2021(SB). The Hon'ble High Court, in its judgment/order dated 04.06.2021, (Annexure RA-25), directed as under:-



"We are of the considered view that in case of the petitioners are aggrieved with the order dated 06.01.2021 passed by the Central Administrative Tribunal in O.A. No. 318 of 2020, they may move an application for recall/review of the order passed by the Central Administrative Tribunal, Lucknow in O.A. No. 318 of 2020. Issuing pertaining to order/letter dated 11.02.2021 can be raised before Central Administrative Tribunal, Lucknow, which is the forum prescribed. So far the claim regarding compassionate appointment is concerned the petitioners may pursue the Original Application No. 26/2018 filed by them, which is pending before the Central Administrative Tribunal, Lucknow."

Considering the aforesaid, we do not find any reason to grant indulgence in this case. The writ petition is accordingly dismissed."

2. Keeping in view the aforementioned directions of the Hon'ble High Court in its judgment/order dated 04.06.2021 in WP No. 11404/ 2021 (SB), the matter was reviewed.

3. In the judgment / order of the Tribunal dated 06.01.2021 in OA No. 318/2020, (Annexure RA-1), the relevant operative portion of the order reads as follows:-

"3. Given the above mentioned position and looking to the limited nature of the plea made by learned counsel for the applicant, I deem it appropriate, without going into the merits of the matter, to direct the respondents to consider and decide the

representation given by the applicant on 02.03.2020 for compassionate appointment, (Annexure A-9), by way of a reasoned order in accordance with law, within a period of two months from the date of receipt of a certified copy of this order.

4. Original Application is disposed of accordingly at the admission stage itself.

5. There shall be no order as to costs.”

4. In the review petition, the petitioners have submitted that the dispute regarding compassionate appointment following upon the death of the government servant Mr. Mahendra Pratap Singh has been a contentious one and has been the subject of competing representations and claims which have been submitted to the respondents in this regard; (para-11 of the review petition refers). The review petitioners contend, (para-19 of the review petition refers), that the respondent no. 3 in this review petition, (the applicant in OA No. 318/2020), despite having full knowledge of the existence of the present petitioners' claims in this regard, had concealed the aforementioned material facts and had obtained the impugned order dated 06.01.2021, (operative portion reproduced earlier), from this Tribunal.

5. In essence, the review petitioners have argued that although they were necessary parties to the OA No. 318/2020, they were not made party to that proceedings and consequently, were not heard. Therefore, the order under review asking the respondent nos. 1 & 2 of this review petition to consider and decide the representation



given to them by the respondent no. 3 dated 02.03.2020 may be reviewed and set aside. It is also noticed that the review petitioners have also sought a direction from this Tribunal for quashing the order/ letter no. A.P.P./C.G./Alka Gautam dated 11.02.2021 whereby the respondent no. 2, while conveying to the review petitioners that the respondent no. 3 has been approved for grant of compassionate appointment as per rules following upon the Tribunal's presently impugned order dated 06.01.2021 in Oa 318/2020, has effectively rejected the claim of the present review applicants for compassionate appointment.



6. The process of review is very limited in scope. What is the scope of review and under what circumstances such power can be exercised was considered by the Hon'ble Apex Court in the case of **Ajit Kumar Rath v. State of Orissa and others, (1999) 9 SCC 596**, wherein the Hon'ble Apex Court has held as under:-

"Power of review available to an Administrative Tribunal is the same as has been given to a court under Section 114 read with Order 47 CPC. The power is not absolute and is hedged in by the restrictions indicated in Order 47. The power can be exercised on the application of a person, on 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 order was made. The power can also be exercised on account of some mistake or error apparent on the face of the record or for any other sufficient reason. A review cannot be sought merely for a fresh hearing or arguments or correction of an erroneous view taken earlier. The power of review can be exercised only for correction of a patent error of law or fact which stares in the face without any elaborate argument being needed for establishing it. The expression 'any other sufficient reason' used in

Order 47, Rule 1 means a reason sufficiently analogous to those specified in the rule.”

7. In the present case, while it is the argument of the petitioners that they were necessary parties to OA No. 318/2020, it is observed that this contention is a matter of substantive adjudication and not therefore an error apparent on the face of the record as has been suggested. Further, it is noticed that the present review petitioners have also been in contact with the official respondents for obtaining the disputed appointment in question but have been unsuccessful in persuading them to accept their claims in this regard.



8. As indicated by the Hon'ble High Court in its judgment/order dated 04.06.2021 in WP No. 11404/2021(SB), (Annexure RA-25), the petitioners are also pursuing the OA No. 26/2018 in this Court which is aimed at securing the same substantial relief that they seek through this review petition.

9. It is also noticed that the impugned order in this review petition is one in which it has been directed by this Tribunal that the representation of respondent no. 3 be decided without entering into the merits of the case. It is difficult to see how such an order can be considered as being adverse to the legal rights of the present review petitioners in any way, all the more so because their

competing claims, by their own admission, have remained concurrently placed before the official respondents and there has been no directive in the impugned order restricting the official respondents from considering these appropriately.



10. Going by the facts and circumstances of the case as detailed in the foregoing paragraphs, I am of the considered view that the relief sought by the present review petitioners falls well outside the scope of review as laid down by the Hon'ble Apex Court, as the petitioners have been unable to point out any new facts or evidence previously unknown to the petitioners, or indeed any clear and apparent error on the face of the record. Rather, on the face of it, this appears to be an attempt to reopen and reargue the case on merits which again falls outside the scope of a review petition.

11. In view of these findings, the review application No. 02 of 2021 is found to be entirely untenable and without merit and is accordingly dismissed.

**(A.MUKHOPADHAYA)
MEMBER (A)**

JNS