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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH, JAIPUR.

R.A No.13/2000

Date of order: 21.9.2000

Nandu Singh, S/o Shri Anop Singh, R/o Shanti Bhawan, Bani Park,
Jaipur.

...Applicant.

Vs.

1. Union of India through the Secretary, Mini. of Health & Family Welfare, Nirman Bhawan, New Delhi.
2. The Director, Central Govt. Health Scheme, Nirman Bhawan, New Delhi
3. Additional Director, Central Govt Health Scheme, Hotel Radhey Krishna, Near Rly. Station, Jaipur.

...Respondent.

Mr. Manish Bhandari - Counsel for review petitioner.

Mr. V.S. Gurjar - Counsel for respondents.

CORAM:

Hon'ble Mr. S.K. Agarwal, Judicial Member.

PER HON'BLE MR. S.K. AGARWAL, JUDICIAL MEMBER.

This review application has been filed to modify the order of the Tribunal dated 25.4.2000 passed in O.A No. 428/98, Nandu Singh Vs. UOI & Ors alongwith M.A No. 185/2000 for condonation of delay in filing the Review Application.

2. The M.A for condonation of delay is allowed and the delay is condoned.
3. The applicant in this review petition has prayed to delete or modify the relief clause para 11(a) of the impugned order on the ground of apprehension of his removal on technical ground.
4. Notices were issued to the respondents to file reply and reply was filed by the respondents which is on record. In the reply it has been stated that there is no ground exist in the review petition to modify the impugned order as there is no error apparent on the face of the record and it is further stated that review is not permissible to rehear the matter or to reopen the case.
5. Heard the learned counsel for the parties and also perused the whole record.
6. Para 11 of the impugned order passed by the Tribunal dated 25.4.2000 is reproduced below:

"11. In view of the above, the O.A is accordingly allowed with the following directions:

- (a) The applicant should be continued in service as Waterman only daily wage basis so long as the work is available;
- (b) the applicant may be considered for conferring temporary status if he is found eligible and fit and thereafter the

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applicant will be considered for regularisation on Group-D post in the respondents' department.

(c) The above exercise shall be completed within 3 months from the date of receipt of a copy of this order.

(d) No order as to costs."

7. In para 11(a) the direction is that the applicant should be continued in service as Waterman on daily wage basis so long as the work is available. The contention of the learned counsel for the applicant is that the applicant is working as night Watchman w.e.f. 1.2.99 in the office of Chief Medical Officer, CGHS, Jaipur and on the date of passing the impugned order dated 25.4.2000 the applicant was not working as Waterman. Therefore, the word Waterman used in para 11(a) of the impugned order dated 25.4.2000 is factually incorrect which is an error apparent on the face of the record and the same should be rectified in the interest of justice. He further states that if this order is not rectified, the applicant is having apprehension of his removal.

8. The counsel for the respondents has also not stated during the course of his argument that on the date of passing the impugned order the applicant was not working as Watchman in the office of CMO, CGHS, Jaipur.

9. In view of the facts stated before me, it is abundantly clear that in para 11(a) of the impugned order the word Waterman used is factually incorrect, therefore, this error apparent on the face of the record is liable to be rectified.

10. Section 22(3) of the Administrative Tribunals Act, 1985 confers on Administrative Tribunal discharging the functions under the Act, the same powers as are vested in a Civil Court under the Code of Civil Procedure while trying a suit in respect inter alia of reviewing its decisions.

11. A Civil Court's power to review its own decision under the Code of Civil Procedure is contained in Order 47 Rule 1, Order 47. Rule 1 provides as follows:

"Order 47 Rule 1; Application for review of judgment:

(1) Any person considering himself aggrieved;

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

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

(c) by a decision on 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

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sufficient reason, desires to obtain a review of the decree passed or order made against him, may apply for a review of judgment to the court which passed the decree or made the order."

12. On the basis of the above proposition of law, it is clear that power of the review available to the Administrative Tribunal is similar to power given to civil court under Order 47 Rule 1 of Civil Procedure Code, therefore, any person who consider himself aggrieved by a decree or order from which an appeal is allowed but from which no appeal has been preferred, can apply for review under Order 47 Rule 1(a) on the ground that there is an error apparent on the face of the record or 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 or order was passed but it has now come to his knowledge.

13. In view of the above settled legal position and facts and circumstances of this case, I am of the considered view that in para 11(a) of the impugned order it is necessary and imperative to delete the word 'Waterman'.

14. I, therefore, allow the review petition and modify para 11(a) of the impugned order, as discussed above and after modification, para 11 of the impugned order will be read as follows:

"11. In view of the above, the O.A is accordingly allowed with the following directions:

(a) The applicant should be continued in service on daily wage basis so long as the work is available;

(b) the applicant may be considered for conferring temporary status if he is found eligible and fit and thereafter the applicant will be considered for regularisation on Group-D post in the respondents' department.

(c) The above exercise shall be completed within 3 months from the date of receipt of a copy of this order.

(d) No order as to costs."


(S.K. Agarwal)

Member (J).