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**CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH, ALLAHABAD**

(THIS THE 30th DAY of **January, 2018**)

**HON'BLE DR. MURTAZA ALI, MEMBER (J)
HON'BLE MR. GOKUL CHANDRA PATI, MEMBER (A)**

Civil Misc. Delay Condonation Application No. 330/00092/2018

With

Civil Misc. Review Application No. 330/00001/2018

1. Union of India through Secretary, Ministry of Communication, (Department of Posts & I.T), Shashtri Bhawan, New Delhi.
2. Post Master General, U.P West Region, Office of Post Master General, District – Agra.
3. Superintendent of Post Offices, Etah Division, Etah – 207001.
4. Assistant Superintendent of Post Offices, West Sub Division, Etah – 207001.

..... Applicants

V E R S U S

Sandeep Rajpoot, S/o Shri Sultan Singh, R/o Village & P.O – Sheorari, District – Etah (U.P).

..... Respondent

In

Original Application No. 330/01253 / 2016.

Sandeep Rajpoot

..... applicant

V E R S U S

Union of India and others.

..... Respondents

Advocate for the Applicants :- Shri A.K. Rai

Advocate for the Respondents:-

O R D E R

Delivered by Hon'ble Mr. Gokul Chandra Pati, Member (A)

The instant Review Application (in short RA) has been filed by the applicants against the order dated 31.08.2017 passed by this Tribunal in OA No. 330/01253/2016 (Sandeep Rajpoot Vs. U.O.I. & Ors). The RA has been filed with a delay condonation

application as it has been filed with a delay of more than three months. The application for delay is mainly on the ground of the time taken for obtaining necessary approvals from the authorities concerned for filing the Review Application. Taking into account the official formalities in such matters, the delay in filing this RA is condoned.

2. The main grounds raised in the RA to review the order dated 31.08.2017 of this Tribunal in OA No. 1253/2016 are as under: -
 - a. The original application was allowed without giving proper opportunity of hearing to the applicants of this RA (the respondents in the OA No. 1253/2016) and without going into the merits of the case.
 - b. The engagement of respondent (applicant in the OA No. 1253/2016) as GDSMD was reviewed by the higher authority and it was found that such engagement was not proper as the respondent had submitted fake mark-sheet of High School.
 - c. The educational certificates were sent to the Vice Chancellor, Gurukul Vishav Vidhyalay, Vrindavan, who vide his letter dated 10.08.2016 informed that from the year 2003 to onwards no examination was conducted by the Gurukul Vishva Vidyalaya, Vrindavan. Vide letter dated 10.08.2016, he also intimated that vide U.P. Government Gazette Notification dated 10.05.2013, it is clear that the examination for any year conducted by the Gurukul Vishva Vidhyalay, Vrindavan is not equivalent to High School conducted by the U.P. Board, Allahabad.

d. In view of the above, the respondent was selected and appointed for the post of GDSMD on the basis of bogus / fake High School Mark-sheet. Accordingly, the engagement of the respondent applicant was terminated.

3. The review of the order of this Tribunal is done under section 22(3)(f) of the Administrative Tribunals Act, 1985 read with provisions of the CPC. Rule 1 of Order 47 of the CPC states as under: -

“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 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 judgment 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 judgment 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 the decision on a question of law on which the judgment 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 judgment.”

4. It is clear from above provisions relating to the review, the RA can not be entertained on the grounds which were already considered in the OA. In the case of **Kamlesh Verma v. Mayawati And Others** reported in 2013 AIR SC 3301, Hon'ble Supreme Court has held 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)

.....

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.

Summary of the principles

20. Thus, in view of the above, the following grounds of review are maintainable as stipulated by the statute:

20.1 When the review will be maintainable:

- (i) Discovery of new and important matter or evidence which, after the exercise of due diligence, was not within knowledge of the petitioner or could not be produced by him;
- (ii) Mistake or error apparent on the face of the record;
- (iii) Any other sufficient reason.

The words “any other sufficient reason” have been interpreted in [Chhajju Ram v. Neki](#) and approved by this Court in **Moran Mar Basselios Catholicos v. Most Rev. Mar Poulose Athanasius** to mean “a reason sufficient on grounds at least analogous to those specified in the rule”. The same principles have been reiterated in **Union of India v. Sandur Manganese & Iron Ores Ltd.** [JT 2013 8 SC 275](#)

20.2 When the review will not be maintainable:

- (i) A repetition of old and overruled argument is not enough to reopen concluded adjudications.
- (ii) Minor mistakes of inconsequential import.
- (iii) Review proceedings cannot be equated with the original hearing of the case.
- (iv) Review is not maintainable unless the material error, manifest on the face of the order, undermines its soundness or results in miscarriage of justice.
- (v) A review is by no means an appeal in disguise whereby an erroneous decision is reheard and corrected but lies only for patent error.
- (vi) The mere possibility of two views on the subject cannot be a ground for review.
- (vii) The error apparent on the face of the record should not be an error which has to be fished out and searched.
- (viii) The appreciation of evidence on record is fully within the domain of the appellate court, it cannot be permitted to be advanced in the review petition.

(ix) Review is not maintainable when the same relief sought at the time of arguing the main matter had been negatived.”

5. This Tribunal’s order dated 31.08.2017 in the OA No. 1253/2016 was based on the order dated 14.07.2017 of this Tribunal in the OA No. 742/2016 and the applicants of this RA (respondents in the OA) were directed to proceed under Rule 4(3) (C) of the GDS (Conduct and Engagement) Rules, 2011 taking into account the serious allegation of submission of fake mark sheet and certificates against the respondent of the RA (applicant in the OA No. 1253/2016). Since the grounds indicated in the RA have been considered at the time of passing the order dated 31.08.2017 and no fresh ground as required under the law has been made out in the RA, we do not find any reason to review the order dated 31.08.2017 as per the provisions of law as discussed in paragraph 2 and 3 of this order.

6. In view of above, the RA being devoid of merit, is dismissed.

MEMBER (A)

MEMBER (J)

Anand...