

**Central Administrative Tribunal  
Principal Bench, New Delhi.**

**RA-133/2015 in  
OA-70/2006**

**New Delhi, this the 06<sup>th</sup> day of September, 2017**

**Hon'ble Sh. Shekhar Agarwal, Member (A)**  
**Hon'ble Sh. Raj Vir Sharma, Member (J)**

J.M. Sharma,  
S/o late Sh. C.R. Sharma,  
Retd. Assistant Engineer,  
Irrigation & Flood Control Department,  
Government of NCT of Delhi.

Residential Address:  
J.M. Sharma,  
House No. E-186  
East of Kailash,  
New Delhi-110065 (Now deceased)

Represented through  
His Legal Heirs namely

(a) Smt. Kanta Sharma,  
W/o late Sh. J.M. Sharma  
House No. E-186,  
East of Kailash, New Delhi-65.

(b) Sh. Vijay Sharma,  
S/o late Sh. J.M. Sharma,  
House No. E-186,  
East of Kailash, New Delhi-65.

(c) Sh. Rajiv Sharma,  
S/o Late Sh. J.M. Sharma  
House No. E-186,  
East of Kailash, New Delhi-65.

(d) Sh. Arun Sharma,  
S/o late Sh. J.M. Sharma,  
House No. E-186,  
East of Kailash, New Delhi-65.

... Applicants

(through Sh. Padma Kumar S.)

Versus

1. Union of India,  
Through the Secretary,  
Ministry of Home Affairs,

Government of India,  
New Delhi.

2. The Lt. Governor,  
Govt. of NCT of Delhi,  
Raj Niwas, Delhi.

3. The Chief Secretary,  
Govt. of NCT of Delhi,  
Delhi Sachivalaya,  
IP Estate, New Delhi.

4. The Secretary,  
Irrigation & Flood Control Department  
Govt. of NCT of Delhi,  
4<sup>th</sup> Floor, ISBT Building, Delhi.

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Respondents

(through Ms. P.K. Gupta)

### **ORDER (ORAL)**

#### **Hon'ble Mr. Shekhar Agarwal, Member (A)**

MA No. 1700/15 has been filed for condonation of delay of 112 days in filing the RA. For the reasons stated therein, the same is allowed and the delay is condoned.

2. RA No. 133/2015 has been filed by applicant of OA No. 70/2006 titled J.M. Sharma vs. UOI for review of our order dated 05.12.2014 by which three OAs namely, OA No. 70/2006, OA No. 452/2002 and OA No. 453/2002 were disposed of. Learned counsel for the review applicant argued that while disposing of the aforesaid OAs by a common order, this Tribunal has not considered the following grounds taken by the applicant in his OA:

"(a) It is the established Principle of Law that no penalty, overlapping the superannuation/retirement date can be imposed. The applicant retired on 30.04.2003, while the penalty of reduction by two stages cumulatively has been awarded without any period and ultimately the same adversely affects the applicant's pension and practically the same is a penalty of not only reduction in the time scale, but is a cut in pension (Ground 5.4)."

3. We have perused our order and we find that the grounds dealt with in the order are enumerated at pages 54-56 which are as follows:

"21. We, therefore, list out the following issues raised by the Applicants in these cases and the Respondent's response to them:-

- (1) Non-compliance of the provision contained in Rule 14(18) of the CCS CCA) Rules, 1965.
- (2) Non-supply of the CVC Report.
- (3) Non-supply of the various other documents relied upon by the Applicants during the enquiry proceedings to defend their case.
- (4) The prosecution deliberately dropped the Prosecution Witness Sh. O.P. Sharma, the Chief Engineer.
- (5) The cases against the Applicants are of 'no evidence' as none of the Prosecution Witnesses have deposed against them.
- (6) The collapse of the bridge was due to its design submitted by M/s Project Consultants.
- (7) The Disciplinary Authority was biased inasmuch as the Disciplinary Authority considered the very same crack in the bridge as "fine hair line cracks" for awarding lesser penalty to the co-delinquents while in their case it was described as "serious cracks".
- (8) The Appellate Authority's order was illegal and arbitrary."

However, the ground mentioned by the review applicant does not figure in the same. Accordingly, it appears that an error has crept into our judgment inasmuch as we have failed to adjudicate the aforesaid ground taken by the applicant.

4. In view of the same, this RA is allowed and our order dated 05.12.2014 is recalled qua the applicant only. OA No. 70/2006 is restored to its original number and shall be heard again on 25.10.2017.

**(Raj Vir Sharma)**  
**Member (J)**

**(Shekhar Agarwal)**  
**Member (A)**

/ns/