

**Central Administrative Tribunal
Principal Bench
New Delhi**

RA No.140/2017
MA No.2321/2017
In
O.A.No.1625/2014

New Delhi this the 19th day of August, 2017.

Hon'ble Mr. K.N. Shrivastava, Member (A)

Smt. Sumitra Devi Ex-Safai Wali MES No.462454
Aged about 61½ years W/o late Shri Rajgan Lal
R/o H. No. 18, Maida Mohalla Lal Kurti,
Meerut Cantt.

..Applicant

Versus

1. Union of India
(Through Secretary)
Ministry of Defence, South Block
New Delhi-110001.
2. The Directorate General (Pers) EIC
Engineer-in-Chief, MES Branch AHQ
Kashmer House Rajaji Marg
New Delhi-110011.
3. The Controller General of Defence Accounts
(CGDA) Ulan Batar Marg
Palam, Delhi Cantt-110010.
4. The HQCE Central Command MES
Mahatma Gandhi Marg
Lucknow.
5. The Pr. CDA (Pension)
Dropadi Ghat, Allahabad.
6. The HQCE UB Area MES
Bareilly Zone, Sarvatra Bhawan
Station Road, Bareilly.
7. The Controller of Defence Accounts(Army)

Belvadier Complex
Meerut Cantt-250001.

8. The Commander Works Engineer(CWE)
Meerut Cantt-250001.
9. The GE(North)
Meerut Cantt-250001.

....Respondents

O R D E R (By Circulation)

For the reasons mentioned in MA No.140/2017, delay of 66 days in filing the Review Application is condoned and the MA is allowed.

2. This Review Application (RA) has been filed by the review applicant under XLVII Rule (1) of the Code of Civil Procedure, 1980 readwith Section 22 (3) (f) of the Administrative Tribunals Act, 1985, seeking review of this Tribunal's order dated 23.02.2017 in OA No.1625/2014.

2. The review applicants were respondents in the OA. The original applicant had claimed payment of interest on the delayed release of his DCRG and commutation of pension benefits, totalling to Rs.4,10,839/-. Finding merit in the OA, the Tribunal directed the respondents to pay interest @9% on the *ibid* amount of Rs.4,10,839/- w.e.f. 30.09.2012 to 26.11.2014.

3. The review applicants (respondents in the OA) have pleaded the following important grounds for seeking review of the Tribunal's order dated 23.02.2017:

“ i) That the respondent submits that the process for disbursement for terminal benefits was initiated much prior to her retirement and the time consumed in the process and follow up for calculating the date of superannuation was also occasioned on account of discrepancy in her date of birth due to submission of different medical certificates indicating different date of birth.

ii) That it is also pertinent to mention that all other benefits which required approval of the local authority were distributed to the applicant readily on time as well as two and a half month salary given to her due to premature retirement. It was only the benefits of DCRG and pension which required approval of higher authorities which took time that too on account of discrepancy in the documents submitted by the applicant.

iii) That the respondent despite due diligence was not able to produce its entire records for perusal of the Hon'ble Tribunal, leading to an erroneous finding of fact, attributing the entire delay on part of the Respondent, leading to erroneous order of levying penalty/interest, thus making a fit case for review of the impugned judgment dated 23.02.2017.”

4. A mere reading of these grounds and other points raised in the RA would give an impression as though the review applicants have tried to re-argue the case. As a matter of fact, the RA appears to be in the nature of an appeal, which is not permissible under law.

5. The *sine qua non* for reviewing any order of the Tribunal is existence of an apparent error on the face of the record. The review applicants have failed to point out any error apparent on the face of the order under review.

6. On the power of the Tribunal to review its own orders, the Hon'ble Supreme Court has laid down clear guidelines in its judgment in the case of **State of West Bengal & others Vs. Kamal Sengupta and another**, [2008 (3) AISLJ 209] stating therein that *"the Tribunal can exercise powers of a Civil Court in relation to matter enumerated in clauses (a) to (i) of sub-section (3) of Section (22) of Administrative Tribunal Act including the power of reviewing its decision."*

At Para (28) of the judgment, the principles culled out by the Supreme Court are as under:-

"(i) The power of 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) of CPC.

(ii) The Tribunal can review its decision on either of the grounds enumerated in order 47 Rule 1 and not otherwise.

(iii) The expression "any other sufficient reason" appearing in Order 47 Rule 1 has to be interpreted in the light of other specific grounds

(iv) An error which is not self-evident and which can be discovered by a long process of reasoning, cannot be treated as a error apparent in the fact of record justifying exercise of power under Section 22(2) (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 a larger bench of the Tribunal or of a superior court

(vii) A decision/order cannot be reviewed under Section 22(3)(f).

(viii) 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.

(ix) 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.”

7. For the reasons discussed in the foregoing paras, I do not find any merit in the RA. Accordingly, the RA is dismissed in circulation.

(K.N. Shrivastava)
Member (A)

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