CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

R.A.NO.154/14
(In OA 2791/10)

New Delhi, this the 26th day of April, 2017

CORAM:
HON'BLE SHRI SHEKHAR AGARWAL, ADMINISTRATIVE MEMBER
AND
HON'BLE SHRI RAJ VIR SHARMA, JUDICIAL MEMBER
……

Ms. Tabassum Khan,
D/o Sh.Bundu Khan,
R/o 1-89 Palika Enclave,
NDMC Complex,
Moti Bagh ï (99 Flats),
New Delhi-21 é é Petitioner

(By Advocate: Shri Sudarshan Rajan)

Vs.

1. Govt. of NCT of Delhi,
Through Secretary,
Delhi Secretariat,
Near IPO, New Delhi

2. Delhi Subordinate Service Selection Board,
Govt. of NCT of Delhi,
FC-16, Institutional Area,
Karkardooma, New Delhi 110302 é .Respondents

(By Advocate:Shri Vijay Pandita)

é é é .

ORDER

***Per* Raj Vir Sharma, Member(J):**

The review petitioner was applicant in OA No.2791 of 2010. The present review application was filed by her on 10.7.2014 under Rule 17

of the Central Administrative Tribunal (Procedure) Rules, 1987 read with Section 22(3)(f) of the Administrative Tribunals Act, 1985, seeking review of the order dated 2.9.2011 passed by the Tribunal dismissing OA No.2791 of 2010 as being devoid of merit.

2. Along with the R.A., the applicant filed MA No.2422 of 2014 seeking condonation of delay of 1300 of days in filing of the R.A.

3. Opposing the R.A. and MA for condonation of delay, the respondents have filed counter replies. The applicant has also filed a rejoinder reply thereto.

4. We have perused the records of OA No.2791 of 2010 and RA No.154 of 2014, and have heard Shri Sudarshan Rajan, the learned counsel appearing for the review petitioner, and Shri Vijay Pandita, the learned counsel appearing for the respondents.

5. In RA No.154 of 2014 and MA No.2422 of 2014 the applicant has not assigned any reason/explanation for the delay of 1300 days in filing of the R.A. seeking review of the order dated 2.9.2011(ibid). However, in her rejoinder reply filed on 19.11.2016, the applicant has stated that due to her financial problems, she was unable to file the RA or appeal against the order dated 2.9.2011(ibid), and has submitted that since she has an excellent case on merits, the technicalities should not come in the way of the Tribunal delivering justice to her. It has also been stated by the applicant that in the month of May 2014 she came to know that the Hon'ble High Court of Delhi

passed a judgment on the same subject matter. Thereafter, she borrowed money from her relative and filed the present R.A. in June 2014. Thus, the delay was neither intentional nor deliberate.

6. In support of the applicantôs prayer for condonation of delay, Shri Sudarshan Rajan, the learned counsel appearing for the applicant-review petitioner, relied on the decisions of the Honôble Supreme Court in **Union of India Vs. Sube Ram and others,** (1997) 9 SCC 69; **K.C.Sharma and others Vs. Union of India and others,** (1997) 6 SCC 721; and **Director, Government of India Vs. General Secretary, Central Government Small Scale Industries Organization Employees' Union and another,** (1998) 5 SCC 630.

6.1 In **Union of India Vs. Sube Ram and others** (supra), the Honôble Supreme Court observed, inter alia, that since the appellate court had no power to amend the decree and grant the enhanced compensation by way of solatium and interest under Section 23(2) and proviso to Section 28 of the Land Acquisition Act, 1894 (as amended by Act 68 of 1984), it was a question of jurisdiction of the Honôble High Court of Delhi to entertain the application filed by the respondents under Sections 151 and 152 of the Code of Civil Procedure, 1908 for enhancement of solatium and interest on the enhanced compensation and to allow the said application acceding to the respondentsô claim. It was further observed by the Honôble Supreme Court that ñsince courts have no jurisdiction, it is the settled legal position that it is a nullity and it can be raised at any stageò. After having so observed, the

Hon'ble Supreme Court condoned the delay in filing of the appeal by the appellant, and allowed the appeal by setting aside the award of the solatium @ 30% under Section 23(2) and interest @9% for one year from the date of taking possession and 15% thereafter till the date of deposit under the proviso to Section 28 of the Act and by restoring the original order dated 24.7.1984 passed by the Hon'ble High Court of Delhi.

6.2 In **Director, Government of India Vs. General Secretary, Central Government Small Scale Industries Organization Employees' Union and another** (supra), an industrial dispute was referred for adjudication to the Industrial Tribunal. Feeling aggrieved by the Industrial Tribunal's award, the appellant filed a writ petition in the Hon'ble Kerala High Court. The writ petition was dismissed by a learned Single Judge on the ground that the writ petition was not maintainable in view of Section 28 of the Administrative Tribunals Act, 1985. Thereafter, both the appellant and the respondent filed applications under Section 19 of the Administrative Tribunals Act, 1985. The Central Administrative Tribunal decided both the said applications in favour of the respondents. The appellant filed an SLP against the Central Administrative Tribunal's decision. The said SLP was dismissed as withdrawn. Thereafter, the appellant filed Writ Appeal against the judgment of the learned Single Judge of the High Court of Kerala. The said writ appeal was dismissed by Division Bench of the Hon'ble High Court of Kerala. The petition filed by the appellant for review of the order passed by the Central Administrative Tribunal on the applications under

Section 19 of the Act was also dismissed on the ground of limitation. Disposing of the appeals, the Hon'ble Supreme Court held thus:

> ñ4. We will first take up the appeal which is directed against the order of the Central Administrative Tribunal dated 3.3.1992 dismissing the review petition. A perusal of the said order of the Central Administrative Tribunal shows that while observing that there was delay in the filing of the review petition, the Tribunal has proceeded on the basis that the Tribunal would have been inclined to condone the long delay but since the review petition is devoid of substance it did not feel inclined to do so. The Tribunal has considered the matter on merits as to the jurisdiction of the Tribunal to deal with the application under Section 19 of the Administrative Tribunals Act and has held that the Tribunal had jurisdiction to entertain the application against the award made by the Industrial Tribunal. The said view of the Central Administrative Tribunal is not in consonance with the law laid down by this Court in **Ajay D.Panalkar v. Pune Telecom Deptt.,** (1997) 11 SCC 469, wherein it has been laid down that the Administrative Tribunal constituted under the Administrative Tribunals Act, 1985, has no jurisdiction to adjudicate upon the findings of the Industrial Tribunal. In view of the said decision, the order dated 3.3.1992 passed by the Central Administrative Tribunal rejecting the review application cannot be upheld and the said review application must be allowed. The order dated 3.3.1992 passed by the Central Administrative Tribunal is, therefore, set aside, the delay in the filing of the review application is condoned and the said review application is allowed and the judgment of the Central Administrative Tribunal dated 31.8.1990 passed in OAs Nos.403 of 1989 and 94 of 1990 is set aside.
>
> 5. As regards the order dated 25.11.1991 passed by the Division Bench of the Kerala High Court, we are of the view that having regard to the facts and circumstances of the case, it was a fit case in which the High Court should have condoned the delay in the filing of the writ appeal and the matter should have been heard on merits. The order of the Division Bench of the High Court dated 25.11.1991 dismissing Writ Appeal No.532 of 1991 is, therefore, set aside, the delay in the filing of the said writ appeal is condoned and the said writ appeal is remitted to the High Court for considering on merits. Since the matter relates to the year 1991, the High Court is requested to take up and dispose of the writ appeal at an early date,

> preferably within a period of six months. The appeals are disposed of accordingly. No order as to costs.ò

6.3 In **K.C.Sharma and others Vs. Union of India and others** (supra), the appellants were Railway employees retiring between 1980 and 1988. They were aggrieved by the notification dated 5.12.1988 which adversely affected their pension retrospectively. The notification was not challenged by them within the limitation period. However, when the Full Bench of the Tribunal, in another case, declared the said notification invalid, by its judgment dated 16.12.1993, the appellants claimed from the Railways the benefits of the judgment and when the benefit was not extended to them, they filed the applications before the Tribunal in April 1994. The Tribunal refused to condone the delay in filing of the said applications. The Hon'ble Supreme Court held thus:

> ñ6. Having regard to the facts and circumstances of the case, we are of the view that this was a fit case in which the Tribunal should have condoned the delay in the filing of the application and the appellants should have been given relief in the same terms as was granted by the Full Bench of the Tribunal. The appeal is, therefore, allowed, the impugned judgment of the Tribunal is set aside, the delay in filing of OA No.774 of 1994 is condoned and the said application is allowed. The appellants would be entitled to the same relief in the matter of pension as has been granted by the Full Bench of the Tribunal in its judgment dated 16.12.1993 in OA Nos.395-403 of 1993 and connected matters. No order as to costs.ò

7. The applicant in the present case has not sought for reviewing of the order dated 2.9.2011(ibid) either on the ground of lack of jurisdiction of the Tribunal in entertaining and deciding the O.A. or for refusal by the Tribunal to condone delay in filing of the O.A. seeking the benefit of any earlier judgment passed by the Tribunal in any case filed by the similarly

circumstanced person challenging the respondentsô decision declaring him/her ineligible for selection as OBC candidate for the post in question due to non-submission of the required OBC certificate at the appropriate time. Therefore, the decisions in **Union of India Vs. Sube Ram and others** (surpra)**, K.C.Sharma and others Vs. Union of India and others** (supra) and **Director, Government of India Vs. General Secretary, Central Government Small Scale Industries Organization Employees' Union and another (**supra) are of no avail to the applicant.

8. After considering the pleadings/materials available on record, we are not satisfied that the applicant had sufficient cause for not filing the R.A. within thirty days from the date of receipt of copy of the order dated 2.9.2011(ibid) in terms of Rule 17 of the Central Administrative Tribunal (Procedure) Rules, 1987. Therefore, we are not inclined to condone the delay of 1300 days in the filing of RA No.154 of 2014 on 10.7.2014. MA No.2422 of 2014 for condonation of delay is liable to be rejected. Consequently, RA No.154 of 2014 is also liable to be dismissed, as being hopelessly barred by limitation.

9. In support of her prayer for reviewing of the order dated 2.9.2011(ibid), the applicant has urged the following grounds:

> ñA. FOR THAT the impugned order is bad in law and facts of the present case and thus, is liable to be set aside.
>
> B. FOR THAT the impugned judgment is in stark contravention of the law laid down by the Honôble High Court of Delhi at New Delhi in W.P. (C) No. 405/2013 tiled as ñAnil Kumar Vs. Union of Indiaò and W.P. (C)

No. 5416 of 2012 titled as ñRakesh Kumar Vs. Union of Indiaò. A copy of the said judgments dated 10.4.2013 is annexed herewith and marked as Annexure A-4.

C. FOR THAT the impugned judgment has ignored the factum that the status of any candidate belonging to a reserved category is akin to his date of birth and is thus unalterable and the requirement of a certificate depicting such status is merely evidence of the status which already exists.

D. FOR THAT the impugned judgment has completely overlooked the proposition that the condition of producing the OBC certificate in the name of the applicant, which was never specifically notified by the respondents in the advertisements issued by them, has the effect of depriving the applicant of her legitimate right to be considered as an OBC candidate. Reliance can be placed on ñDSSSB and Anr. V. Ms.Anu Devi & Anr. (W.P. (C) No.13870 of 2009).

E. FOR THAT admittedly the OBC status of the applicant was never challenged or disputed by the respondents and hence in such a scenario the non-production of the said certificate was a mere irregularity which was subsequently cured.

F. FOR THAT the Hon'ble Tribunal ought to have considered the factum that the requirement of production of OBC certificate could not have been equated with the conditions of eligibility as per educational qualifications certifying that the applicant is holding a valid degree.

G. FOR THAT it has been held in plethora of judgments that production of a defective caste certificate not fitting the prescribed format is a mere irregularity and is thus curable.

H. FOR THAT in the present set of circumstances the respondents never specified any particular format or condition regarding the date of issue of OBC certificate and thus, it cannot be reasonably prescribed that the applicant was made aware of the prescribed format in which the said certificate was to be submitted.

I. FOR THAT after the issuance of admit card and even after clearing the written examinations, the applicant was not informed regarding the requirement of a fresh OBC certificate as per prescribed format. The Hon'ble

> Tribunal ought to have taken serious not of the said fact as in the absence of any information regarding the non-acceptance of her earlier OBC certificate, the applicant was deprived of the opportunity to cure the irregularity and supply a fresh OBC certificate as allegedly was required by the respondents.ò

10. During the course of hearing, Shri Sudarshan Rajan, the learned counsel appearing for the applicant, relied on the decisions of the Hon'ble High Court of Delhi in **Anil Kumar, etc. Vs. Union of India, etc.,** WP (C) No.105/2013 and connected matter, decided on 10.4.2013, and in **Manjusha Banchhore Vs. Staff Selection Commission & Anr.,** W.P. (C) No.7304 of 2010, decided on 6.5.2013.

10.1 In **Anil Kumar v. Union of India's case** (supra), the petitioner in W.P. (C) No.5416/12 had applied for recruitment to the post of ASI (Executive) in CISF, and petitioner in W.P. (C) No. 405/2013 had applied for recruitment to the post of Constable (General Duty) in BSF,CISF,SSB and CRPF, as candidates belonging to OBC category on the basis of OBC certificates which had not been issued within three years before the closing date for receipt of applications. Subsequently, petitioner in W.P. (C) No. 5416 of 2012 got OBC certificate on 25.1.2011, and petitioner in W.P. (C) No. 405/2013 got OBC certificate on 2.12.2011, and both of them produced the same before the SSC at the time of interview, i.e., the last stage/tier of selection. But the SSC rejected their candidatures as OBC candidates. While considering the facts and circumstances of the case, the Hon'ble High Court of Delhi referred to and relied on the decisions in Hari Singh v. Staff Selection Commission & another, 170(2010) DLT 262 (DB); DSSB and

another v. Ms.Anu Devi and anr, W.P. (C) No.13870 of 2009; Govt. of NCT of Delhi v. Poonam Chauhan, 152(2008) DLT 224; Vishesh Kumar v. Staff Selection Commission, W.P. (C) No.5580 of 2012, decided on 14.9.2012; Parminder Bhadana v. Staff Selection Commission, W.P. (C) No.2211 of 2012, decided on 17.4.2012; DSSSB and another v. Ram Kumar Gijroya and others, LPA 562/2011, decided on 24.1.1992; Mrs. Valsammu Paul v. Cochin University and others, AIR 1996 SC 1011; and Deepak v. Competent Authority for the Purpose of Admission to Engineering Courses in Government of Engineering College, Pune, AIR 1997 Bom.1. Lastly, the Hon'ble High Court, referring to and quoting the relevant portion of an office order/clarification issued by the SSC on 1.6.2011, held thus:

> ñé é .It would be pertinent to notice in this context that on 1.6.2011, the SSC itself has issued an Office Order/Clarification, which states that:
>
> > ñ4. Accordingly, it has now been decided by the Commission that the OBC certificate issued by the competent authority as prescribed by DOPT, in the prescribed proforma, issued up to the last tier of examination will be accepted by the Commission with effect from 6.5.2011, the date of receipt of clarification from DOPT. The crucial date in this regard will be determined as follows ï
> >
> > (i) If the last tier is the written examination, the date of examination/last paper.
> > (ii) If the last tier is the interview, the date of completion of interview.
> > (iii) If the last tier is skill test/computer proficiency test/data entry test, the date of completion of such test.ò
>
> 11. In the light of the above order, it is held that the production of certificates dated 25.1.2011 before the last stage of the selection process, i.e., interview on 1.2.2011

> conforms to the Office Order No.1/4/2010-P & P. In any event, subject to this verification by the respondents, the petitionersô applications are entitled to be further processed. Similarly, the production of the acceptable format of the OBC certificate in Anil Kumarôs case also merits consideration of his candidature and further processing, subject to verification.
>
> 12. In the light of the above discussion, directions are issued to the respondents to process the candidature of the two writ petitioners in WP (C) 405/2013 and W.P. (C) No. 5416/2012 and take into consideration the subsequent OBC certificates produced by them and intimate each of them directly about the outcome, within four weeks. In case they are selected and have to be appointed and there is consequently impediment in their being accommodated in one or the other batch for training, consequent directions are issued to the respondents to accommodate these petitioners at the relevant slot in the succeeding batch or batches of recruits for the purpose of training. The writ petitions and pending application are allowed in the above terms.ò

10.2 In **Manjusha Banchhore v. Staff Selection Commission & another** (supra), as per the advertisement for CGL(P)Examination 2004, the candidates, appearing and wanting to take the benefit of reservation, were not to furnish any certificate in support of their claim for reservation. It was also indicated therein that permission to take the examination till the stage of interview would be treated as provisional requiring verification of the documents at any stage as per the decision of the SSC. Having successfully cleared the Preliminary Examination held on February 08,2004, the petitioner was informed by the SSC, under cover of a communication dated April 06,2004, that she was eligible to take the final examination and for which she had to fill up another application and submit the same by May 21,

2004. Before that date, on April 24, 2004, a notice pertaining to the examination was published. As per paragraph 17 thereof, the candidates, who had cleared the Preliminary Examination, were informed that while filling up the application form to take the final examination, they were to attach the requisite certificate if they were claiming to avail the benefit of reservation. On 2.8.2004 the petitioner had obtained a certificate, as per proforma prescribed, certifying her to be a member of the ôKurmiô caste, for the reason that the certificate dated December 12, 2003 submitted by her along with her application was not as per the proforma prescribed. The SSC, by letter dated 12.2.2008, called upon the petitioner to appear for an interview on 4.3.2008. The said letter dated 12.2.2008 intimated the petitioner that the caste certificate, if relied upon, in the prescribed proforma should be brought for verification at the time of interview. On the date of interview, i.e., 4.3.2008, the petitioner gave an undertaking that although she had applied and qualified written part of subject examination in OBC category, she could not furnish the OBC certificate in the prescribed proforma for Central Government Offices issued by the competent authority on or before 21.5.2005, which was the last date for submission of application forms for the Main Examination. Therefore, she requested that her candidature might be considered in Unreserved Category instead of OBC and that she would not claim for OBC status later and she shall abide by the decision of the Commission with regard to status of her candidature. Following the decision of the Hon'ble High Court in **Delhi Subordinate**

Services Selection Board and another v. Anu Devi & anr (supra), wherein it was held that reservations for SC, ST and OBC are beneficial legislations, and that submission of an OBC certificate to claim reservation could not be equated with acquisition of educational qualifications, the Hon'ble High Court held that caste certificates are more in the nature of a memorandum recording a fact pertaining to birth. Accordingly, the Hon'ble High Court allowed the writ petition, set aside the Tribunal's order passed in OA No.2412 of 2009, and granted the reliefs sought by the petitioner in the writ petition.

10.2.1 In **Delhi Subordinate Services Selection Board and another, etc. v. Ms.Anu Devi & another, etc.** (supra), the question that was considered by the Hon'ble High Court of Delhi was: Whether the respondents in the writ petitions were not entitled for selection to the post of Primary Teacher under the OBC category as they had not submitted the OBC certificate along with the application forms by 29.10.2007, the last date for submitting the application form, but they had submitted the OBC certificate within the time given later on by the notices given by the petitioners? The writ petitions were filed by the DSSSB-petitioner challenging the order passed by the Tribunal, whereby the Original Applications filed by the applicants (respondents before the Hon'ble High Court) were allowed. The Tribunal, while allowing the Original Applications, had directed the DSSSB to declare the results and process the cases of the applicants for appointment as Teachers with all benefits as

admissible in law. The Tribunal had held that the plea of cut-off date might hold good for educational qualification, but would not apply in the case of caste certificate, and that eligibility under the OBC category is acquired by a candidate on the date a particular caste is notified as OBC in a particular State and not on account of issuance of an OBC certificate. In the writ petitions, the Hon'ble High Court had upheld the aforesaid decision of the Tribunal.

11. The decisions of the Hon'ble High Court of Delhi, referred to above, being distinguishable on facts, are of no avail to the applicant of the present case. Furthermore, those decisions were rendered by the Hon'ble High Court of Delhi after the Tribunal decided OA No.2791 of 2010 as being devoid of merit, vide order dated 2.9.2011, which is sought to be reviewed.

12. After considering the pleadings and the rival submissions of the parties, the Tribunal dismissed OA No.2791 of 2010, vide its order dated 2.9.2011(ibid).

13. In **Ajit Kumar Rath v. State of Orissa and others,** (1999) 9 SCC 596, the Hon'ble Supreme Court has held that a review cannot be claimed or asked for merely for a fresh hearing, or arguments, or correction of an erroneous view taken earlier. That is to say, 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. Any other attempt, except an attempt to correct an apparent error, or an

attempt not based on any ground set out in Order 47 of the Code of Civil Procedure, would amount to an abuse of the liberty given to the Tribunal under the Act to review its judgment.

14. In **Union of India v. Tarit Ranjan Das,** 2004 SCC (L&S) 160, the Hon'ble Supreme Court has held that the scope for review is rather limited, and it is not permissible for the forum hearing the review application to act as an appellate court in respect of the original order, by a fresh order and rehearing the matter to facilitate a change of opinion on merits.

15. In **State of West Bengal and others v. Kamal Sengupta and another,** (2008) 2 SCC (L&S) 735, the Hon'ble Apex Court has scanned its various earlier judgments and summarized the following principles:

> ñ35. The principles which can be culled out from the above-noted judgments are:
>
> (i) The power of the 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 CPC.
> (ii) The Tribunal can review its decision on either of the grounds enumerated in Order 47 Rule 1 CPC.
> (iii) The expression ñany other sufficient reasonò appearing in Order 47 Rule 1 has to be interpreted in the light of other specified grounds.
> (iv) An error which is not self-evident and which can be discovered by a long process of reasoning, cannot be treated as an error apparent on the face of record justifying exercise of power under Section 22(3)(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 larger Bench of the tribunal or of a superior court.

(vii) 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.

(viii) 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.ò

16. The Hon'ble Supreme Court, in **Kamlesh Verma vs. Mayawati & others,** 2013(8) SCC 320, has laid down the following contours with regard to maintainability, or otherwise, of review petition:

> ñ20. 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 ñany other sufficient reasonò have been interpreted in Chhajju Ram v. Neki (AIR 1922 PC 122) and approved by this Court in Moran Mar Basselios Catholicos v. Most Rev. Mar Poulose Athanasius (AIR 1954 SC 526) to mean ña reason sufficient on grounds at least analogous to those specified in the ruleò. The same principles have been reiterated in Union of India vs. Sandur Manganese & Iron Ores Ltd. (23013(8) SCC 337).
>
> 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.ò

17. A review is by no means an appeal in disguise whereby an erroneous decision is reheard and corrected, but lies only for patent error. The appreciation of materials on record being fully within the domain of the appellate court cannot be permitted to be advanced in the review petition. In a review petition, it is not open to the Tribunal to re-appreciate the evidence/materials, and to reach a different conclusion, even if that is possible. Conclusion arrived at on appreciation of evidence/materials and contentions of the parties, which were available on record, cannot be assailed in a review petition, unless it is shown that there is an error apparent on the face of the record or for some reason akin thereto. The review

petitioner has not shown any material error, manifest on the face of the order dated 2.9.2011(ibid), which undermines its soundness or results in miscarriage of justice. If the review petitioner is not satisfied with the order passed by this Tribunal, remedy lies elsewhere. The scope of review is very limited. It is not permissible for the Tribunal to act as an appellate court.

18. In the light of our above discussions, we have no hesitation in holding that the applicant has not been able to make out a case for review of the order dated 2.9.2011(ibid).

19. Resultantly, MA No.2422 of 2014 filed by the applicant for condonation of delay of 1300 days in filing of the RA is rejected. R.A.No.154 of 2014 is dismissed as being barred by limitation and also as being devoid of merit. No costs.

(RAJ VIR SHARMA)
JUDICIAL MEMBER

(SHEKHAR AGARWAL)
ADMINISTRATIVE MEMBER

AN