

**Central Administrative Tribunal
Principal Bench**

RA No.183/2017 in
MA No.2812/2017
OA No.4120/2013

New Delhi this the 18th day of August, 2017

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

The All India Institute of Medical Sciences,
Through its Director, Ansari Nagar,
New Delhi.

-Review Applicant

-Versus-

Dr. Madhu Bhardwaj,
W/o Maj. Rakesh Bhardwaj,
B-4/3098, Vasant Kunj,
New Delhi-30.

-Respondent

O R D E R (By Circulation)

This Review Application (RA) has been filed under Section 22 (3) (f) of the Administrative Tribunals Act, 1985 read with Rule 17 of the Central Administrative Tribunal (Procedure) Rules, 1987, seeking review of this Tribunal's order dated 28.07.2016 in OA No.4120/2013. The original applicant had prayed for the following reliefs in the said OA:

“a. Grant of pensionary and other associated benefits w.e.f. April 2003 in view of her qualifying service of 20 years starting from February 1979 in term of Rule 13 of the CCS Rules 1972; and/or

b. Grant of interest on the pensionary benefits; and;

c. In the alternative, grant of pension proportionate to the years of service being rendered by the Applicant in terms of the Rule 49 (2)(b) of the CCS Rules 1972.”

2. The review applicant was original respondent in OA-4120/2013. From a plain reading of the averments made in the RA would indicate that the review applicant/original respondent in the garb of RA, has tried to re-argue the case on merit, which is impermissible in law. Not realising that these arguments had already been considered by the Tribunal while adjudicating the OA. The review applicant has failed to bring out any apparent error on the face of record of the order, which is *sine qua non* for seeking review.

3. 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.”*

4. In view of the above, the RA is found devoid of any substance and is accordingly dismissed in circulation.

(K. N. Shrivastava)
Member (A)

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