

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

**MA-2896/2015 in RA-230/2015  
and  
RA-230/2015 in OA-3553/2010  
and  
CP No.532/2015 in OA-3553/2010**

**New Delhi this the 11th day of March, 2016.**

**Hon'ble Sh. V. Ajay Kumar, Member (J)  
Hon'ble Mr. P.K. Basu, Member (A)**

1. Shri R.C. Rangray ,S/o Sh. Munshi Ram,  
EE, CPWD,  
R/o Flat No.37, COSMOS Apartments  
Plot No.28, Sec-10, Dwarka, New Delhi 110 075.

2. Shri Jai Bhagwan, S/o Sh. Lachhman Singh,  
Room No. 336-A, Nirman Bhawan,  
New Delhi.

3.Shri K.S. Sandhu,  
s/o Shri Karam Singh Sandhu,  
R/o H.No. 4936 Pancham Society,  
Block D, Sector 68 Mohali (Punjab)-160062.

4.Shri Manjit Singh,  
s/o Sh. Ratto Ram,  
Mamum Map divn. I CPWD,  
Bhaskar Enclave II, Mamum Military Station,  
Mamum Cantt. Pathankot-145001.

5. Shri Baljit Singh, S/o Sohan Lal  
R/o H.No.349, SFS Flats,  
Sector-11, Rohini,  
Delhi-110085.

6. Shri Arab Singh, S/o Sh. Leela Dhar  
R/o H.No. D-123, Green Valley Apartments,  
Sector 18, Rohini, Delhi-110085.

7. Shri S.P.Bawalid, S/o Sh. Chaitter Singh  
R/o H.No.WZ-82, Tatar Pur  
New Delhi-110027.

8. Shri Chet Ram, S/o Sh. Sri Chand  
Border Fencing Zone, CPWD,  
East Block-I, Level IV, R.K. Puram,  
New Delhi-110066. ... Petitioners  
(By Advocate: Shri M.P. Raju with Ashish Kumar Sinha)

Union Public Service Commission,  
Through Chairman,  
Dholpur House,  
New Delhi.

Versus

UNION OF INDIA & Others ...  
(By Advocate: Shri D.S. Mahendru)

Respondents

**ORDER (Oral)**

**By Shri V. Ajay Kumar, Member (J):**

**MA No. 2896/2015 in RA No.230/2015 in OA No. 3553/2010**

Heard Shri D.S.Mahendru for the review applicant and Shri M.P.Raju for the respondents in the RA, who are the original applicants in the OA.

2. MA No. 2896/2015 filed for seeking condonation of delay in filing RA, in the circumstances and in the interest of justice, is allowed.

**RA No.230/2015 in OA 3553/2010:**

3. The applicant Nos. 1 and 3 to 8 belong to the SC category and applicant No. 2 belongs to ST category and all of them are Diploma holders as on the relevant date and are working as Executive Engineers on adhoc basis in the respondent- Department-Central Public Works Department (in short, CPWD).

4. They have filed the OA No. 3553/2010 seeking a direction to the respondents to promote them as Executive Engineers on regular

basis, with effect from the due dates, respectively, with all consequential benefits.

5. This Tribunal, after hearing both sides and after considering the various judgments of the Hon'ble Supreme Court disposed of the OA and the relevant paragraphs of the same read as under:

" 9. During the course of the arguments, both the counsels admitted that Gurbaaz Singh's case (Writ Petition(C) No.840/2003) was finally disposed of by the Honble High Court of Delhi on 22.07.2014 with certain directions. Similarly, in Rohtas Bhankhar & Others Vs. Union of India & Another, 2014 (8) SCALE 594, while holding that S. Vinod Kumar and Anr. Vs. Union of India & Others, 1996 (6) SCC 580, whereunder by relying upon Indra Sawhney Vs. Union of India & Ors., 1992 Supp.3 SCC 217, it was held that provision for lower qualifying marks/standards of evaluation was not permissible under Article 16(4) of the Constitution of India in view of Article 335, as per incuriam and approving the decision in Superintending Engineer, Public Health, U.T. Chandigarh and Others Vs. Kuldeep Singh & Others, 1997 (9) SCC 199 declared the O.M. dated 22.07.1997, whereunder the instructions contained in 1970 O.M. relaxing standards in case of SC/ST candidates were withdrawn, is illegal.

10. In view of disposal of the aforesaid cases, now there is no legal impediment for the respondents to affect the promotions to the post of EE (Civil) on regular basis. Further, the applicants, who were denied promotions on regular basis in respect of vacancies for the years 1994-95, 1995-96 and 1996-97 on the ground that they being diploma holders did not meet the required criteria of outstanding ability and record as they were not given the benefit of relaxed standards, become entitled for consideration basing on the relaxed standards.

11. In the circumstances and for the aforesaid reasons and in view of the orders passed by various courts during the pendency of the O.A., upholding the contentions identical to that of the applicants, the ends of justice would be met if the O.A. is disposed of by directing the respondents to consider the cases of the applicants for promotion to the post of EE (Civil) on regular basis from the due dates or from the year 1994-95 onwards by applying the ratio decided in the aforementioned cases. Accordingly, we do. The respondents shall complete this exercise within four months from the date of receipt of a copy of this order. No order as to costs. "

6. Shri D. S. Mahendru, learned counsel for the Review applicant, mainly contends that though the Hon'ble Apex Court in Rohtas

Bhankhar & Others Vs. Union of India & Another, 2014 (8) SCALE 594,(Supra) upheld the action in relaxing the standards in case of SC/ST candidates, however, not totally gave go by to the merit. According to the learned counsel, this Tribunal while disposing of the OA, failed to properly appreciate the said decision in this regard.

7. The law on review is well settled. The Hon'ble Apex Court in **Ajit Kumar Rath v. State of Orissa and Others** - (1999) 9 SCC 596 held that "power of review available to the Tribunal under Section 22(3)(f) is not absolute and is the same as given to a Court under S. 114 read with Order 47 Rule 1 of CPC.". It has further held that "the scope of review is limited to correction of a patent error of law or fact which stares in the face, without any elaborate argument being needed to establish it" and that "exercise of power of review on a ground other than those set out in Order 47 Rule 1 amounts to abuse of liberty granted to the Tribunal and hence review cannot be claimed or asked merely for a fresh hearing or arguments or corrections of an erroneous view taken earlier."

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

9. In **State of West Bengal and Others v. Kamal Sengupta and Another** – (2008) 8 SCC 612 – the Hon'ble Apex Court after referring to **Ajit Kumar Rath's** case (supra) held that "an order or decision or judgement cannot be corrected merely because it is erroneous in law or on the ground a different view could have been taken by the Court/Tribunal on a point of fact or law and while exercising the power of review the Court/Tribunal concerned cannot sit in an appeal over its judgment/decision."

10. In a recent judgment, the Hon'ble Supreme Court in **Kamlesh Verma v. Mayawati and Others** (2013) 8 SCC 320, after discussing various case laws on the jurisdiction and scope of review, summarised the principles of review as under:

"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" has been interpreted in *Chhajju Ram v. Neki*, [AIR 1922 PC 112] and approved by this Court in *Moran Mar Basselios Catholicos v. Most Rev. Mar Poulouse Athanasius & Ors.*, [(1955) 1 SCR 520], 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. & Ors.*, [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 negated."

11. Since the contention raised by the review applicant cannot be a valid ground while exercising the review jurisdiction of this Tribunal as per the settled principles of law, the RA is dismissed. No costs.

12. In the circumstances, the review applicants, who are the respondents in the OA, are permitted to comply with orders of this Tribunal in the OA within three months from the date of receipt of copy of this order.

Separate order has been passed in CP NO. 532/2015.

**(P.K. Basu)**  
**Member (A)**

**(V. Ajay Kumar)**  
**Member (J)**

/ns/