

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

R.A. No.246/2017 in O.A. No.2283/2015

This the 22<sup>nd</sup> day of December 2017

**Hon'ble Mr. Justice Permod Kohli, Chairman**  
**Hon'ble Mr. K.N. Shrivastava, Member (A)**

Vinod Kumar Gupta s/o Sh. O P Gupta  
Age 63 years  
r/o B-62, Parijat Apts., West Enclave  
Pitam Pura, Delhi-34

Previously employed as Director in erstwhile  
Dte. General of Supplies & Disposals, Deptt. of Commerce  
Govt. of India, New Delhi

..Applicant

Versus

1. Union of India  
Through the Secretary, Dept. of Personnel & Training  
North Block, New Delhi 110 001
2. The Secretary  
Deptt. of Commerce  
Udyog Bhagwan, New Delhi – 110 011  
Also for Dte. General of Supplies & Disposals  
(Now closed – remnant work with respondent No.2)

..Respondents

## **O R D E R (in circulation)**

**Mr. K.N. Shrivastava:**

The applicant, through the medium of this R.A., has prayed for review of the Tribunal's order dated 28.09.2017 in O.A. No.2283/2015. The said O.A. was disposed of with the following directions:-

“i) The approval of disciplinary authority vide letter dated 01.07.2013 to the DoPT is to be construed as approval for initiation of the disciplinary proceedings only.

ii) Annexure A-2 charge-sheet dated 08.07.2013 is quashed and set aside. The respondents are at liberty to pass a fresh charge-sheet after getting approval of the disciplinary authority exclusively for it.”

2. The review applicant (original applicant in the O.A.) has made the following prayers in this R.A.:-

“It is accordingly prayed that an order may also be passed on the relief (iii) made in the O.A. to allow interest @ 18% on all the withheld payments i.e. leave encashment, Gratuity and Commuted amount of pension for the sake of justice to the applicant. Para 14 (ii) of the order dated 28<sup>th</sup> Sept., 2017 of the Hon’ble Tribunal in this O.A. may also be amended to rectify the date of the charge sheet to 09.07.2013.”

3. After going through the contents of the R.A. and the above prayer contained in it, it is quite evident that the applicant has prayed for some additional reliefs. He has not pointed out any apparent error on the face of the record of the order under review. It is well settled law that *sine qua non* for reviewing any order of the Tribunal is existence of any apparent error on the face of the record of the order.

4. 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 paragraph (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.”

5. In view of the above, this R.A. is dismissed in circulation.

**( K.N. Shrivastava )**  
**Member (A)**

**( Justice Permod Kohli )**  
**Chairman**

**December 22, 2017**  
**/sunil**