

**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH****R.A. No.249/2017 In
O.A. No.2224/2014****New Delhi this the 19th day of December, 2017****HON'BLR MR. V. AJAY KUMAR, MEMBER (J)
HON'BLE MS. NITA CHOWDHURY, MEMBER (A)**

Fateh Singh Chauhan
 S/o Sri Surjan Singh Chauhan,
 Aged about 68 years,
 Post Retired Auditor,
 R/o House No.315, Street 14,
 Vijay Park Extension,
 Dehradun, Uttarakhand.

..Review Applicant

Versus

1. Union of India,
Through Secretary,
Ministry of Defence,
Government of India,
New Delhi-110001.
2. The Controller General of Defence Account,
Airport Road,
Sport View, Delhi Cantt.
New Delhi-110010.
3. Principal Controller of Defence Accounts,
(Air Force),
Dehradun,
Uttarakhand.

...Respondents

ORDER BY CIRCULATION**By Hon'ble Ms. Nita Chowdhury, Member (A)**

The facts, in brief, are that while deciding the Original Application (OA) bearing No.2224/2014, this Tribunal considered all the issues raised by the Review Applicant and disposed of the same on merits on 10.11.2017 (Annexure-RA-1). The operative part of the said order reads as under:-

“14. Further, we may mention that applicant is claiming benefit of ACP Scheme wherein financial benefit is allowed after 12 years and 24 years. As he has got two promotions, he is not entitled for any benefit. Had he worked till MACP came into existence in 2009 effective from 01.08.2008, then he might have got some benefit but he superannuated on 31.08.2007, hence no relief can be granted.

15. We will be failing in our duty if we don't consider the judgments relied upon by the applicant. In **Hukum Chand's case** (supra), the Hon'ble Supreme Court held as under:-

“18. In the case of State of Tripura & Ors. Vs. K.K. Roy[3] this Court again observed that “it is not disputed that the other States in India/Union of India having regard to the recommendations made in this behalf by the Pay Commission introduced the Scheme of Assured Career Promotion in terms whereof the incumbent of a post if not promoted within a period of 12 years is granted one higher scale of pay and another upon completion of 24 years if in the meanwhile he had not been promoted despite existence of promotional avenues.”

19. As noticed earlier, the ACP Scheme was introduced in the ICAR by making the necessary provision in the statutory Service Rules. Admittedly, Shri J.I.P. Madan has been given the benefit under the ACP Scheme. Therefore, the decision taken by the respondent was within the purview of the Service Rules and can not be said to be arbitrary. That being so, the claim made by the appellant is clearly misconceived”.

Finally, the Hon'ble Supreme Court dismissed the aforesaid case. Thus it will be no help to the applicant.

16. Similarly he has relied upon the judgment of the Hon'ble High Court of Madras in the case of **D.Daniel Appadurai's** (supra), wherein applicant has got only one promotion. Hence Hon'ble High Court had directed the respondents to give him benefit of 2nd ACP. But again, this case will not help the applicant in any way as he had already got two promotions.

17. Further, he has relied on the judgment passed in OA 3606/2013 by the Central Administrative Tribunal on 15.10.2014. In that case it was held that since the applicants therein had claimed benefit of both ACP and MACP, hence that OA was allowed, whereas applicant in this OA has claimed benefit of only ACP. Thus he cannot derive any benefit from the said judgment.

18. Thus seen from any angle, no relief can be granted to the applicant. Accordingly, this OA is dismissed. No costs”.

2. Now the Review Applicant has filed the present RA bearing No.249/2017 for reviewing the indicated order, mainly on the same grounds which he had taken while arguing the OA. All the grounds were

considered by this Tribunal while deciding the main OA. Thus review applicant cannot be permitted to re-agitate all the points again.

3. It is now well settled principle of law that the earlier order can only be reviewed if the case squarely falls within the legal ambit of review and not otherwise. Order 47 Rule 1 CPC read with Section 22(3)(f) of the Administrative Tribunals Act, 1985 regulates the provisions of review of the orders. According to the said provision, a review will lie only when there is discovery of any new and important matter or evidence which, after the exercise of due diligence was not within his knowledge or could not be produced by the review applicant seeking the review at the time when the order was passed **or made on account of some mistake or error apparent on the face of the record**. It is now well settled principle of law 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 Authority in respect of the original order by a fresh and re-hearing of the matter to facilitate a change of opinion on merits. The reliance in this regard can be placed on the judgments of the Hon'ble Supreme Court in cases of **Parsion Devi and Others vs. Sumitri Devi and Others (1997) 8 SCC 715, Ajit Kumar Rath Vs. State of Orissa (1999) 9 SCC 596, Union of India Vs. Tarit Ranjan Das (2003) 11 SCC 658 and Gopal Singh Vs. State Cadre Forest Officers' Association & Others (2007) 9 SCC 369**.

4. An identical question came up to be decided by Hon'ble Apex Court in case **State of West Bengal and Others Vs. Kamal Sengupta and Another (2008) 8 SCC 612**. Having interpreted the scope of review and

considering the catena of previous judgments mentioned therein, the following principles were culled out to review the orders:-

“(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 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 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”.

5. Meaning thereby, the original order can only be reviewed if case strictly falls within the domain of Order 47 Rule 1 CPC read with Section 22(3)(f) of the Administrative Tribunals Act, 1985 and not otherwise. In the instant RA, the review applicant has not pointed out any error apparent on the face of record warranting a review of the order dated 10.11.2017 (Annexure-RA-1). Moreover, the issues now sought to be

urged, were subject matter of the OA and have already been adjudicated upon by the Tribunal.

6. In the light of the aforesaid reasons, as there is no apparent error on the face of record, so no ground is made out to entertain the present Review Application, which is accordingly dismissed.

(Nita Chowdhury)
Member (A)

(V. Ajay Kumar)
Member (J)

Rakesh