

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

**RA-252/2015
MA-3205/2015
MA-3206/2015 in
OA-3566/2013**

New Delhi this the 28th day of September, 2015.

**Hon'ble Mr. G. George Paracken, Member (J)
Hon'ble Mr. Shekhar Agarwal, Member (A)**

1. Union of India through the General Manager,
Northern Railway, Baroda House, New Delhi
2. The General Manager(P),
Northern Railway, Baroda House, New Delhi
3. The Divisional Railway Manager,
Northern Railway, Muradabad Division,
Muradabad. Review Applicants

Versus

1. Amar Pal Singh S/o Sh. Param Singh
r/o Linepar Near Bishnoi General Store,
Moradabad.
2. Anil Kumar S/o Sh. Ram Chander Singh
r/o Q. No.L.6D Railway Loco Colony,
Haridwar, Near Dev Pura Chowk.
3. Ram Lal S/o Late Sh. Hira Lal,
r/o Vikas Nagar, Line Par Moradabad,
Near U.R.N.U. School.
4. Vipin Kumar Bishnoi,
S/o Sh. R.C. Bishnoi
r/o Vaibhav Laxmi Sadan,
Hanuman Nagar, Moradabad.
5. Chootey Lal S/o Sh. Triloki Ram,
r/o H.No.39, Gaytri Nagar, Linepar,
Moradabad-244001.
6. Ram Naresh S/o Sh. Shri Pal,
r/o L-80A(O.H.) South Railway Colony,
Chiriyा Tola, Linepar, Moradabad.
7. Sonpal S/o Sh. Lala Ram,
r/o Smarat Ashok Nagar,
Near C.L. Gupta Bag, Delhi Road, Moradabad.
8. Manoj Kumar S/o Sh. Rajesh Prasad,

r/o Gyani Vali Basti Linepar,
Near Transfarmer, Moradabad.

9. Piryandra Pal Singh S/o Late Sh. Ram Phal Singh,
r/o 6B/146, Avas Vikas, Buddhi Vihar Phase-2,
Moradabad (U.P.)-244001.
10. Lal Bahadur S/o Sh. Kushal,
r/o Q.No.L-17D, Loco Colony, Fabbara Chauk,
Moradabad.
11. Ravi Krishan S/o Sh. R.P. Chaubey,
r/o H.No.69/E, North Railway Colony,
Opp: Gurudwara, Moradabad.
12. Lalit Mohan S/o Sh. Durga Dutt,
r/o L-86, Moradabad Loco Shad,
Moradabad.
13. Ram Chander S/o Sh. Gyan,
r/o L.86, Loco Shad, Moradabad
14. Narontam Prakash Verma,
S/o Late Sh. Nanhey Singh,
r/o Linepar Chidiya Tola, Near
Post Office Raj Kamal,
Moradabad.
15. Virdesh Kumar S/o Sh. Hemraj,
r/o H.No.115, behind G.R.P. Line,
Gaytri Nagar, Linepar Moradabad.
16. Rakesh S/o Sh. Mahavir Singh,
r/o Vikas Nagar, P.O. M.S. Pal,
Linepar, Moradabad.
17. Pawan Pathak S/o Late Sh. Ram Kishore Pathak,
r/o H.No.S-5/96A, Grater Green Park,
Bareilly.
18. Rakesh Kumar Sharma
S/o Late Sh. Ram Sewak Sharma,
r/o H.No.327/3, Pass Ganga Printers,
Old Chadmari, Subhash Nagar,
Bareilly-243001.
19. Yashpal Singh S/o Sh. Ram Gopal Singh,
r/o Asalatpur, P.O. Bilari,
Distt. Moradabad (U.P.)
20. Mohd. Akram S/o Sh. Mohd. Sibtain,
r/o Railway Awas No.T.30C,

North Railway Colony, Cantt. Road,
Bareilly Jn.,

21. Rajesh Dubey S/o Late Sh. N.M. Dubey,
r/o H.No.534, Kali Charan Marg,
Subhash Nagar, Bareilly.
22. Arvind Kumar S/o Sh. Vidya Ram,
r/o H.No.376, Karolan Near Viharipur Police
Chowki, Bareilly.
23. Sunil Kumar Rathore
S/o Late Sh. Badri Prasad Rathore
r/o Hempurva, Chungi Chowki,
Behind House of Hakim Baba,
Sitapur (U.P.)-261001.
24. Ramesh Chandra-I S/o Sh. Ram Kumar,
r/o Q.No.BW-106B,Railway Colony,
ROZA Jn. Distt. Shahjananpur (U.P)
Pin-242306
25. Mahendra Kumar S/o Shyam Lal,
r/o Q.No.1012A, Railway Hospital Colony,
Rosa-Shahajahanpur (U.P.)
Pin: 242306
26. Arvind Singh S/o Sh. Gajender Singh,
r/o D-1126, New Para Colony,
Rajajipuram, Lucknow (U.P.)
27. Dhruv Kumar S/o Sh. Ram Sanihilal,
r/o L-5A, Railway Colony Rosa
Shahajahanpur (U.P.)
28. Kamlesh S/o Sh. Ramlal,
r/o Mohalla Bypass, Gaushala Road,
Hardoi (U.P.)
29. Ram Ratan S/o Manga,
r/o Subhash Nagar Near Sarla Bajpai Bag,
Hardoi (U.P.)
30. P.K. Sharma-II S/o Sh. R.S. Sharma,
r/o L-105, Railway Harthala Colony,
Moradabad.
31. Sunil Kumar Sharma S/o Late Sh. Shiv Kumar,
r/o Railway Colony No.T-27B Laksar,
Distt. Haridwar.
32. Virender Kumar S/o Sh. Harpal Singh,
r/o T-13C, Loco Colony, Laksar.

33. Gopal Chaudhary S/o Late Sh. R.K. Chaudhary,
r/o L-5B, Railway Colony, Haridwar.

34. Anuj Kumar Srivastava
S/o Sh. Sachida Nand Srivastava
r/o B-119, Raj Nagar Jawalapur,
Haridwar (Uttrakhand).

35. Anil Kumar Sharma-III
S/o Late Sh. Jagdish Prasad Sharma
r/o Satya Vihar Colony, Near Sahu Jain Degree College
Nazibabad (U.P.)

36. Mohan Lal S/o Late Sh. Lekhraj,
r/o Pathri, Near Railway Station,
P.O. Ambuwala, Haridwar (Uttrakhand)

37. Ram Murti S/o Sh. Ram Bharat,
r/o Single Mandi-I, H.No.3,
Dehradun (Uttrakhand)

38. Mohd. Rahis Beg S/o Sh. Rahis Beg,
r/o Motibag, 108/D-6, Moradabad

39. Nanak Singh S/o Sh. Chanda Singh,
r/o H.252-C, Railway Harthla Colony,
Moradabad.

40. Chetan Pal Singh S/o Late Sh. Ramswoop,
r/o Rail Awas No.T-61/D (OH)
Moradabad

41. Mahinder Kumar Sharma
S/o Sh. Ramchander Lal Sharma,
r/o Vill.& Post Mojampur Jatra,
The. Dhampur, Bijnor. Respondents

O R D E R (By Circulation)

Mr. Shekhar Agarwal, Member (A)

This review application has been filed by the respondents of OA-3566/2013 for review of our order dated 08.04.2015 by which the OA was allowed and the following order was passed:-

"7. We allow this O.A. and quash the order of re-fixation of pay passed by the respondents revising the pay of the applicants from Rs.14790/- to Rs.13500. We further direct that the pay of the applicants be re-fixed in accordance with the observations made by us in our order dated 01.04.2015 in OA-3895/2013. This exercise will be completed within a period of eight " weeks from the date of receipt of a certified copy of this order. No costs."

2. In this review application, the review applicants have contended that the pay of the railway employees is fixed under the Railway Services (Revised Pay

Rules, 2008), which have been framed by the President in exercise of powers conferred under proviso to Article 309 of the Constitution. The findings of the Tribunal recorded in the judgment are, however, not supported by any of the documents except the averments made in the OA. Therefore, both the findings of facts as well as reasoning given by the Tribunal require reconsideration. The review applicants have further submitted that this Tribunal can exercise review jurisdiction under Section-22(3)(f) of Administrative Tribunals Act, 1985 when there is an error apparent on the face of the record. Therefore, they have submitted that the instant case be reviewed.

3. We have gone through the submissions of the review applicants. They have not pointed out any error apparent on the face of the record, which could justify review of this order. In fact, the only ground mentioned by them is that findings of facts as well as reasoning of the Tribunal need to be reconsidered because they were not supported by any document. In our opinion, the ground taken by the review applicants is clearly beyond the scope of the review. If the review applicants are aggrieved by the findings of this Court, appropriate course of action for them would be to approach higher judicial forum. If we were to allow their prayer, we would be sitting in appeal over our own judgment and rehearing the case, which is clearly impermissible in review.

4. While considering the scope of review, Hon'ble Supreme Court in the case of **Aribam Tuleshwar Sharma Vs. Aribam Pishak Sharma**, (1979) 4 SCC 389 referred to an earlier decision in the case of **Shivdeo singh Vs. State of Punjab**, AIR 1963 SC 1909 and observed as under:-

"It is true as observed by this Court in **Shivdeo Singh v. State of Punjab**, AIR 1963 SC 1909, there is nothing in Article 226 of the Constitution to preclude a High Court from exercising the power of review which is inherent in every Court of plenary jurisdiction to prevent miscarriage of justice or to correct grave and palpable errors committed by it. But, there are

definitive limits to the exercise of the power of review. The power of review may be exercised on the discovery of new and important matter or evidence which, after the exercise of due diligence was not within the knowledge of the person seeking the review or could not be produced by him at the time when the order was made; it may be exercised where some mistake or error apparent on the face of the record is found; it may also be exercised on any analogous ground. But, it may not be exercised on the ground that the decision was erroneous on merits. That would be the province of a Court of appeal. A power of review is not to be confused with appellate power which may enable an Appellate Court to correct all matters or errors committed by the Subordinate Court."

4.1 Similarly in the case of **Ajit Kumar Rath Vs. State of Orissa and Others**, AIR

2000 SC 85 the Apex Court reiterated that power of review vested in the Tribunal is similar to the one conferred upon a Civil Court and held:-

"The provisions extracted above indicate that the power of review available to the Tribunal is the same as has been given to a court under Section 114 read with Order 47 CPC. The power is not absolute and is hedged in by the restrictions indicated in Order 47. The power can be exercised on the application on account of some mistake or error apparent on the face of the record or for any other sufficient reason. 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. **It may be pointed out that the expression "any other sufficient reason" used in Order 47 Rule 1 means a reason sufficiently in the rule.**

Any other attempt, except an attempt to correct an apparent error or an attempt not based on any ground set out in Order 47, would amount to an abuse of the liberty given to the Tribunal under the Act to review its judgment."

[Emphasis added]

4.2 In the case of **Gopal Singh Vs. State Cadre Forest Officers' Assn. and Others** [2007 (9) SCC 369], the Apex Court held that after rejecting the original application filed by the appellant, there was no justification for the Tribunal to review its order and allow the revision of the appellant. Some of the observations made in that judgment are extracted below:-

"The learned counsel for the State also pointed out that there was no necessity whatsoever on the part of the Tribunal to review its own judgment. Even after the microscopic examination of the judgment of the Tribunal we could not find a single reason in the whole judgment as to how the review was justified and for what reasons. No apparent error on the face of the record was pointed, nor was it discussed. Thereby the Tribunal sat as an appellate authority over its own judgment. This was completely impermissible and we agree with the High Court (Justice

Sinha) that the Tribunal has traveled out of its jurisdiction to write a second order in the name of reviewing its own judgment. In fact the learned counsel for the appellant did not address us on this very vital aspect."

5. We also notice that this review application has been filed on 27.08.2015 for review of our order dated 08.04.2015 much after the prescribed period of 30 days. In the review application it has been mentioned that a separate application for condonation of delay is being filed. We notice that the same has been filed through MA-3205/2015 in which the only reasoning given for delay is that it has been caused due to administrative procedures. Even if we condone this delay, on merit we find that there is not much substance in the review application as mentioned above.

6. MA-3206/2015 has been filed along with the review application seeking stay of the Tribunal's order dated 08.04.2015 pending disposal of the review application. Since we are disposing of this review application in circulation, this MA has become infructuous and is dismissed as such.

7. We also notice from the averments made in the review application that a reference has been made to some enquiry proceedings conducted against some railway employee. This is evident from Para-6 of the review application in which there is a reference to an order passed by the Disciplinary Authority on 02.05.2011. Again in Paras-10 to 12 a reference has been made to disciplinary proceedings and in that context reliance has also been placed on the judgment of Hon'ble Supreme Court in the case of **UOI & Ors. Vs. Bisambhar Das Dogra**. Since this case was of pay fixation and not of disciplinary proceedings, reference to disciplinary proceedings in this case is clearly a mistake and has no relevance to this case.

8. In view of the above, we find this review application to be misconceived and without any merits. It is, therefore dismissed in circulation.

(Shekhar Agarwal)
Member (A)

(G. George Paracken)
Member (J)

/Vinita/