

**Central Administrative Tribunal  
Principal Bench  
New Delhi**

**RA No.274/2015  
in  
OA No.502/2013  
MA Nos.3520 & 3521/2015**

Reserved on : 08.11.2017  
Pronounced on : 16.01.2018

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

1. Union of India through  
Chief Statistician of India and  
Secretary, Ministry of Statistics and  
Programme Implementation,  
Sardar Patel Bhawan, Parliament Street,  
New Delhi-110001.
2. Shri Arvind Kumar, Joint Secretary,  
Ministry of Statistics and Programme Implementation,  
Sardar Patel Bhawan, Parliament Street,  
New Delhi-110001.
3. Shri T. S. Jawahar, Director, ISS Section,  
Ministry of Statistics and Programme Implementation,  
Sardar Patel Bhawan, Parliament Street,  
New Delhi-110001.
4. Shri D. K. Sharma,  
Under Secretary (ISS & Vigilance),  
Ministry of Statistics and Programme Implementation,  
Sardar Patel Bhawan, Parliament Street,  
New Delhi-110001. ... Applicants

( By Advocate : Mr. R. N. Singh )

versus

Tushar Ranjan Mohanty S/o Rabi Narayan Mohanty,  
SAG Officer of the Indian Statistical Service,  
Deputy Director General,  
Research and Publication Wing,  
Coordination and Publication Division,  
Central Statistics Office,  
Ministry of Statistics and Programme Implementation,

Wing No.6, West Block No.8,  
R. K. Puram, New Delhi-110066.

Now residing at:  
G-31-, HUDCO Place Extension,  
New Delhi-110049.

... Respondent

( In person )

## **O R D E R**

**Justice Permod Kohli, Chairman :**

This Review Application has been filed by the Union of India and some of its functionaries who were impleaded by name in OA No.502/2013, seeking review of the order dated 29.06.2015 passed by this Tribunal. The grounds of review have been indicated in paras (a) to (i) of the RA. However, during the course of arguments, the main plank of the review petitioners was the findings recorded by the Tribunal in its judgment impugned herein, based upon the record bearing file number 11018/4/2012-ISS.

2. Mr. R. N. Singh, learned counsel appearing for the review petitioners vehemently argued that the findings of the Tribunal relating to the record produced in the impugned judgment could not have been recorded in absence of the record with the Tribunal. It is stated that this record was not available with the Tribunal and thus one can only be surprised how this record has been referred to in the impugned judgment and the findings recorded based thereon. It is relevant to quote the relevant averments made in the review application in this regard:

“With regard to the observations of the Hon’ble Tribunal that it has seen the departmental records, it is submitted that the Hon’ble Tribunal had called for the related records and files bearing No.11018/4/2012-ISS in the month of July, 2013 which was submitted to the Court Master of this Hon’ble Tribunal vide letter dated 18.07.2013. These records were supplied in connection with CP No.223/2013 in OA No.3762/2012 and OA No.502/2013. These records were returned back in the month of November, 2013. No findings were returned back in the month of November, 2013. No findings from this file were recorded by this Hon’ble Tribunal in any of its earlier judgments/Orders prior to the order/judgment dated 29.6.2015. Therefore, keeping in view the fact that the records were seen one and half years earlier and no findings were recorded then, the present observations in the order/judgment dated 29.6.2015 that this Hon’ble Tribunal has seen the departmental records is not clear.”

Further with regard to the findings of this Hon’ble Tribunal that MAs No.1527/2011 and 2404/2011 have never been seen by Respondent No.4 nor by any other officers of the Respondent Ministry, it is submitted that these observations have been made by the Hon’ble Tribunal without going through the File No.11024/8/2010-ISS Vol.II & No.11024/4/2011-ISS of the department dealing with MAs No.1527/2011 and 2404/2011, as these files were never called by this Hon’ble Tribunal, therefore, these observations are contrary to the facts and records as the file No.11024/8/2010-ISS Vol.II & file No.11024/4/2011-ISS dealing with MA No.1527/2011 and 2404/2011 have been dealt by Respondent No.4 and other officers (impleaded in this OA) and the reply has been filed by Respondent No.4, with the approval of all the officers who have been made respondents in the instant OA.....”

3. Thus, the sheet anchor of the argument of Mr. R. N. Singh is based upon the fact whether the Tribunal had the access to file No.11018/4/2012-ISS at the time of passing the judgment impugned,

or the findings are based upon no material (file). It was thus deemed necessary for us to have examined the record.

4. It is admitted in the review application itself, as quoted hereinabove and is reproduced hereunder at the cost of repetition:

“...These records were supplied in connection with CP No.223/2013 in OA No.3762/2012 and OA No.502/2013....”

We have perused the record of CP No.223/2013 disposed of vide order dated 30.08.2013. We find that the Division Bench of this Tribunal in its order dated 17.05.2013 recorded as under:

“Heard the petitioner present in person and learned counsel for the alleged contemnors for sometime.

Learned counsel for the alleged contemnors has explained to us that after receipt of written statement of defence from the petitioner on 12.02.2013 the file was examined and submitted to the disciplinary authority on 26.02.2013. According to the respondents' counsel, the matter was again examined by the Joint Secretary, M/o Statistics and Programme Implementation and the file was resubmitted to the disciplinary authority for its decision on 03.05.2013.

We have perused the file which has been made available to us during the course of hearing. There is nothing on record to show that after 26.02.2013 till 03.05.2013 any action was taken by the respondent department in the matter. However, we have seen that when the file was re-submitted to the Minister (competent authority) on 03.05.2013, it was immediately returned to the Secretary after discussion with him.

Since the Secretary, Ministry of Statistics has already submitted that full compliance of the order of

this Tribunal dated 21.12.2012 will be done within one month, we expect him to do so and adjourn this case for further consideration on 30.05.2013.

Accordingly, list this Contempt Petition again on 30.05.2013.

Order dasti.”

(emphasis supplied)

It is relevant to note that this contempt petition arises out of OA No.3762/2012 which was tagged with OA No.502/2013, as is evident from the record of the CP and the OA. The averment made in the review application that this record was not available with the Tribunal and had been returned back in the month of November, 2013 and submissions made by Mr. R. N. Singh in this regard are contrary to record. It is beyond imagination that the Tribunal could have reproduced all the notings in the impugned judgment without the access to record. It is not the case of the review petitioners that the reproduction of the notings is contrary to the record of the Government. The review petitioners have not disputed the correctness of the recorded findings. The production of record is evident from the order dated 17.05.2013 passed in CP No.223/2013 in OA No.3762/2012 and OA No.502/2013, and the reproduction of the notings, rather the notings do indicate that the Tribunal had access to the record. The very edifice of the review petitioners thus falls to the ground. It can be conveniently said that the affidavit filed along with the review petition is based upon incorrect and wrong facts. Though

it is a serious matter, but we refrain from proceeding further in the matter.

5. Mr. R. N. Singh while pressing ground (a) pointed out the observations of the Tribunal in para 24 of its judgment wherein the Tribunal has made certain observations with regard to the conduct of the respondent No.4. Suffice it to say that the Tribunal had drawn its inference from the record. The Tribunal has a right to formulate its opinion on the basis of the record produced and from the pleadings of the parties, and if such opinion is recorded, it is not a matter of review. Otherwise also, we do not find any ground to re-visit the opinion of the Tribunal.

6. All the grounds from (c) to (g) are again inferences drawn by the Tribunal from record and pleadings of the parties. No submission has been made in this regard as to how these references amount to error apparent on the face of record and what are the reasons for interfering with the inferences drawn by the Tribunal.

7. In sum and substance, we find that this review petition is devoid of any merit. It is settled law that review jurisdiction is available only on the grounds prescribed under Order XLVII Rule 1 of the Code of Civil Procedure, which contains only three grounds – (i) mistake or error apparent on the face of record; (ii) discovery of new and important matter or evidence, which, even after exercise of due diligence, was

not within the knowledge of the review petitioner or could not be produced by him at the time when the order sought to be reviewed was passed; and (iii) for any other sufficient reason. The present case does not fall in any of the categories.

8. This review petition is hereby dismissed.

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

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

/as/