

**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH**

**R.A. No.100/277/2016 In
O.A. No.116/2013**

New Delhi this the 13th day of December, 2016

**HON'BLE MR. JUSTICE M.S. SULLAR, MEMBER (J)
HON'BLE MR. V.N. GAUR, MEMBER (A)**

Union of India & Ors.

Through :

1. General Manager
West Central Railway,
Jabalpur,
Madhya Pradesh.
2. Divisional Railway Manager,
Western Central Railway
Kota Division,
DRM Office, Kota.
3. Senior Divisional Electrical Engineer,
Electrical Loco Shed
Western Central Railway
Kota Division, TRS
Tughlakabad,
New Delhi.Review Applicants in the RA/
Respondents in the OA

Versus

Sh. V. P. Pachouri
S/o Shri Shiv Ram Pachouri
R/o 209/B-3, Western Central
Railway Colony,
Tuglakabad, New Delhi-44.Respondent in RA/Applicant in
OA

ORDER BY CIRCULATION

Justice M. S. Sullar, Member (J)

As is evident from the record, that having relied upon the ratio of law laid down by Hon'ble Apex Court in cases **Man Singh Vs. State of Haryana and Others AIR 2008 SC 2481**

and **Rajendra Yadav Vs. State of M.P. and Others 2013 (2)**

AISLJ 120, on the principle of parity, the **Original Application** (OA) bearing **No.116/2013**, preferred by the Delinquent Official (V.P. Pachouri) was allowed, vide order dated 29.7.2016 (Annexure RA-1). The operative part of the said order reads as under:-

“30. Therefore, the protection under Articles 14 and 16 of the Constitution of India and principles of equality/parity and *stare decisis* are fully attracted to the case of the applicant as well and the epitome of indicated law laid down by the Hon’ble Apex Court is *mutatis mutandis* applicable to the facts of the present case and is complete answer to the problem in hand. Thus, seen from any angle, indeed the impugned orders cannot and should not legally be sustained and deserve to be quashed in the obtaining circumstances of the case.

31. No other point, worth consideration, has either been urged or pressed by the learned counsel for the parties.

32. In the light of aforesaid reasons, the instant OA is allowed. The impugned orders dated 10.09.2009 (AnnexureA-1A) passed by the Disciplinary Authority, order dated 03.03.2010 (Annexure A-2) of Appellate Authority and order dated 22.04.2011 (Annexure A-1) of the Revisional Authority, are hereby set aside. The applicant is exonerated of all the charges framed against him. Needless to mention that naturally he will be entitled to all the consequential service benefits. However, the parties are left to bear their own costs”.

2. Now the respondents-Union of India & Others have filed the instant Review Application on the ground, that Shri P.S. Negi, co-delinquent of the applicant was never held fully responsible by Enquiry Officer (EO), so the original applicant cannot claim parity with his case. A perusal of the record would reveal, that a joint Departmental Enquiry was conducted against the original applicant & Shri P.S. Negi and EO recorded a finding that P.S. Negi is also responsible upto some extent, due to which Railway material was shed out with kachra, but no punishment was awarded to him. So on the principle of parity and protection under Articles 14 & 16 of the Constitution of India, the original applicant was also

exonerated of all the charges, vide order dated 29.07.2016 (Annexure RA-1) by this Tribunal.

3. Meaning thereby, all the points now pleaded in the RA, have already been adjudicated upon while deciding the main OA. Moreover, it cannot possibly be disputed here is, that 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. 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 ***Parson 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 as explained by Hon'ble Apex Court in the indicated judgments and not otherwise. As indicated hereinabove, all the

issues now raised by the review applicants have already been considered and decided in the main judgment (Annexure RA-1) by this Tribunal. The review applicants have not pointed out any other error apparent on the face of record warranting a review of the order dated 29.07.2016 (Annexure-RA-1).

6. In the light of the aforesaid reasons, having perused the record, as there is no apparent error on the face of record, so no ground, much less cogent, is made out to entertain the present Review Application, which is hereby dismissed by circulation, in the obtaining circumstances of the case. All concerned be informed accordingly.

(V.N. GAUR)
MEMBER (A)

(JUSTICE M.S. SULLAR)
MEMBER (J)
13.12.2016

Rakesh