

Central Administrative Tribunal  
Principal Bench: New Delhi

**RA No.22/2018**  
in  
OA No.3579/2017

New Delhi, this the 5<sup>th</sup> day of February, 2018

**Hon'ble Mrs. Jasmine Ahmed, Member (J)**  
**Hon'ble Mr. Uday Kumar Varma, Member (A)**

Kunwar Fateh Singh (Aged about 54 years)  
S/o Sh. Tannu Singh  
R/o 964-A, Old Vijay Nagar,  
Sector-9, Near Children Academy School,  
Samrat Chowk, Ghaziabad – 201009 (UP)  
Working as SWLI (Group C)  
Under Dy. Chief Engineer/Bridge Line,  
Tilak Bridge, New Delhi.

...Applicant

Versus

1. Union of India through the Chairman,  
Railway Board, Rail Bhawan,  
New Delhi.
2. The General Manager,  
Northern Railway,  
Baroda House, New Delhi.
3. Deputy Chief Engineer/Bridge Line,  
Northern Railway,  
Tilak Bridge, New Delhi.

...Respondents

**ORDER (By Circulation)**

**By Hon'ble Uday Kumar Varma, Member (A):**

This Review Application has been moved to seek review of our order dated 14.12.2017 passed in OA No.3579/2017 on the ground that the order under review ignores the aspect that initiation of disciplinary proceedings is a statutory function assigned only to the disciplinary authority and by the impugned order, Rule 9(2), (3), (6), (7), & (9) of RS (D&A) Rules, 1968 have been gravely violated.

Further ground taken by the review applicant is that there was adequate justification for the applicant to come before the Tribunal through the Original Application and not to take recourse to Contempt Proceedings as in the contempt proceedings, the impugned order dated 07.09.2017 and chargesheet dated 13.09.2017 could not have been quashed and, therefore, the only course open to the applicant was to come before us through the OA.

2. We have gone through the review application. There are no new facts that, in any way, alter the nature of the dispute. The fact is that the OA has been entertained. It has been dismissed merely on the ground that the appropriate course of the applicant was to seek remedy under contempt proceedings. The essential element of the case was whether the action of issuance of a chargesheet by the respondents is justified in the light of the Tribunal's earlier order dated 05.12.2016 in OA No.1711/2016. Our order very clearly and unequivocally analyses and interprets the earlier order of the Tribunal and has come to the conclusion that the prayer in the OA for quashing of chargesheet on the ground of Tribunal's earlier order and High Court's order dated 29.07.2015 passed in WP(C) No.6395/2015 is bereft of merit and deserves to be dismissed.

3. We are of the view that nothing in the review application, neither in terms of facts nor in terms of law, offers any justification for the review of our order dated 14.12.2017. It appears that the review applicant in the garb of the present review is trying to re-argue the matter afresh, which is not the scope of review. It is well settled principle of law that a review application is not an appeal in disguise or a fresh hearing and for that the proper remedy is to file an appeal before the appropriate forum/superior court. The *sine qua non* for reviewing the order is existence of an error apparent on the face of the record. The review applicant has failed to point out any such error apparent on the face of the order under review but to re-agitate the grounds already considered as if he is arguing the main OA or an appeal and not the review. It is a settled position that there is difference between review and appeal as has been held by the Hon'ble Apex Court in **West Bengal & Ors Vs. Kamalsengupta & Anr.** [2008(8) SCC 612], which reads as under:-

*“35. The principles which can be culled out from the above noted judgments are :*

*(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."*

4. It is apparent from the above that the scope of the review lies in a very narrow compass. There is a difference between appeal and review. A review is not disguised appeal. We have no hesitation in observing here that this review application in fact contains no material which could establish that there is any error apparent on the face of the order.

5. Having considered the submissions of the review applicant and in view of above discussion, we find no merit

in the instant Review application and the same stands dismissed in circulation. No costs.

(Uday Kumar Varma)  
Member (A)

(Jasmine Ahmed)  
Member (J)

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