

**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH**

R.A. No.25/2017 in
M.A. No.261/2017 in
O.A. No.-4490/2015

New Delhi this the 10th day of February, 2017

Hon'ble Mr. K.N. Shrivastava, Member (A)

Delhi Jal Board
Through its CEO
Varunalaya, Jhandewalan
New Delhi - 110 055

-Review Applicant/Original Respondent

Versus

Mrs. Asha Prabha Bhardwaj
R/o House No.25, Type-3rd,
Jal Vihar Colony New Delhi – 110 024

-Respondent/Original Applicant

O R D E R (By Circulation)

MA No.261/2017 filed by the review applicant (respondent in OA) seeking condonation of delay, for the reasons stated therein, is allowed.

2. This Review Application (RA) has been filed by the review applicant/original respondent, under Rule 17 of Central Administrative Tribunal (Procedure) Rules, 1987, seeking review of this Tribunal's order dated 25.10.2016 passed in OA No.4490/2015. The contention of the applicant in the RA, who is respondent in OA No.4490/2015, is that a charge sheet was duly served on the respondent (applicant in the OA) before her retirement on 30.09.2015.

3. It is further stated that the Tribunal has erred in placing reliance on an inter-departmental communication dated 16.11.2015 to come to a conclusion that the charge sheet has been issued to the applicant in the OA after her retirement on 30.09.2015. Further, it is stated that the onus is squarely upon the respondent (applicant in the OA) to substantiate as to non-receipt of the charge sheet and that the Hon'ble Tribunal, without calling for records, and looking into the documents, accepted the submission of the applicant to arrive at a conclusion that charge sheet was not issued to her.
4. The review applicant has not attached any documentary evidence with the RA to demonstrate that the charge sheet was, indeed, served upon the applicant in the OA prior to her retirement on 30.09.2015. On the other hand, Annexure A-6, which is a communication dated 16.11.2015, from the Administrative Officer (Vigilance) of Delhi Jal Board (DJB) to the Executive Engineer (SW)II, enclosing therewith a copy of the charge sheet dated 29.09.2015, clearly demonstrates that the charge sheet was, in fact, served upon the applicant after almost one and half months of her retirement. Hence it cannot be said that the Tribunal has erred in taking cognizance of Annexure A-6. As such, there is no apparent error on the face of record.
5. The *sine qua non* for reviewing the order of the Tribunal is existence of an apparent error on the face of record. The review applicant has failed in pointing out such an apparent error in the order of the Tribunal.

6. Laying down the guidelines for review of its order by the Tribunal, the Hon'ble Supreme Court in the case of **State of West Bengal & Others vs. Kamal Sen Gupta & Another, [(2008) 3**

AISLJ 202] held that Tribunal can review its order under eight situations as given in Para (28) of the said judgment, which are as follows:

“(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.”

7. In the conspectus of the discussions held in the pre-paras, I do not find any merit in the RA. The RA is accordingly dismissed, in circulation.

(K.N. Shrivastava)
Member (A)

cc.