CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

R.A. No.30/2018 In
O.A. No.4487/2017

New Delhi this the 16th day of February, 2018

HON'BLE MS. NITA CHOWDHURY, MEMBER (A)

MES No.435072 MC Bindal,
Aged about 77 years,
S/o Late Shri Kashi Ram presently Retiree
w.e.f. 31.07.2000 as AE/BR MES R/o Gp-48
Ganga Nagar, Mawana Road,
Meeruth while was last posted in the
Establishment of Commander
Works Engineer (CWE),
Meerut which is an organization
of E-in-C's Branch
AHQ and is under HQ CC
MES Bareilly Zone
Ministry of Defence. ..Review Applicant

Versus

1. The Union of India,
(Through Secretary),
Ministry of Defence,
South Block,
New Delhi-110001.

2. The Directorate General of Personnel,
E-in-C's Branch AHQ,
Rajaji Marg, Kashmere House,
DHQ PO,
New Delhi-110011

3. The Controller General of Defence Accounts
(CGDA),
Ulan Batar Marg,
Palam Delhi Cantt-110010.

4. The HQ CE MES, Bareilly Zone,
Sarvatra Bhawan,
Station Road, Bareilly Cantt.

5. The Chief Records Officer,
(MES) Delhi Cantt-110010.

6. The Principal Controller of Defence Accounts,
(Pension) Darupadi Ghat, Allahabad.

7. The CDA (Army),
Belvadier Complex,
Meerut Cantt-250001.

8. The Commander Works Engineer,
CWE, 29-J, The Mall, Meerut Cantt. ..Respondents

ORDER BY CIRCULATION

The facts, in brief, are that while deciding the Original Application (OA) bearing No.4487/2017, this Tribunal considered all the issues raised by the Review Applicant and dismissed the same on merits on 20.12.2017 (Annexure-RA-1) as there was delay in filing the OA. The said order reads as under:-

> "Nobody appears on behalf of the applicant in this matter even on revised call. It is noticed that this OA has been filed with long period of delay as the applicant has requested for refixing of his pay while admitting that he was superannuated in 2000. No Application for condonation of delay has also been filed.
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> 2. In the circumstances, the OA is dismissed. However, the applicant is at liberty to file fresh OA, if so advised legally, along with Application for condonation of delay. No costs".

2. Now the Review Applicant has filed the present RA bearing No.30/2018 for reviewing the indicated order, mainly on the ground that there was no delay and his OA should not have been dismissed on that account by the Tribunal. This cannot be a ground for reviewing the order passed by the Tribunal. Thus review applicant cannot be permitted to re-agitate all the points again. Moreover, as there was delay, therefore,

neither applicant nor his counsel was present when the OA was heard on merits.

3. 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. According to the said provision, a review will lie only when there is discovery of any new and important matter or evidence which, after the exercise of due diligence was not within his knowledge or could not be produced by the review applicant seeking the review at the time when the order was passed **or *made on account of some mistake or error apparent on the face of the record.*** 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 ***Parsion 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.
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> (ii) The Tribunal can review its decision on either of the grounds enumerated in Order 47 Rule 1 and not otherwise.
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> (iii) The expression "any other sufficient reason" appearing in Order 47 Rule 1 has to be interpreted in the light of other specified grounds.
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> (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).
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> (v) An erroneous order/decision cannot be corrected in the guise of exercise of power of review.
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> (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.
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> (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 and not otherwise. In the instant RA, the review applicant has not pointed out any error apparent on the face of record warranting a review of the order dated 20.12.2017 (Annexure-RA-1). Moreover, the issues now sought to be

urged, were subject matter of the OA and have already been adjudicated upon by the Tribunal.

6. In the light of the aforesaid reasons, as there is no apparent error on the face of record, so no ground is made out to entertain the present Review Application, which is accordingly dismissed.

(NITA CHOWDHURY)
MEMBER (A)

Rakesh