

**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH: NEW DELHI**

**RA No.37/2018 In
O.A No.4143/2017**

New Delhi this the 7th day of March, 2018

**Hon'ble Mr. V. Ajay Kumar, Member (J)
Hon'ble Ms. Nita Chowdhury, Member (A)**

Himanshu Kumar Raghav,
Aged about 32 years
S/o Shri Ravendra Singh
Working as Postal Assistant
O/o the Postmaster General,
Agra Region, Agra (UP).

...Review Applicant

Versus

1. Union of India Through
Secretary,
Ministry of Communication & I.T.
Sansad Marg, New Delhi.
2. The Director General (Posts),
Govt. of India,
Department of Posts,
Dak Bhawan, Sansad Marg,
New Delhi-110001.
3. The Chief Post Master General,
Lucknow Circle,
Lucknow (UP).

... Respondents

ORDER BY CIRCULATION

By Mr. V. Ajay Kumar, Member (J)

The applicant filed the OA No.4143/2017 whereby he applied for the post of Inspector against 66.66% departmental quota since he was working in the Postal Department as Postal Assistant. In the said OA, he has challenged that dropping of 24 questions and

changing answers of 9 questions as arbitrary and illegal. Further, he has challenged that changing of provisional keys without notice or opportunity to him is also against the law and illogical. The said OA was disposed of by this Tribunal on 25.01.2018 (Annexure R-1) by passing the following order:-

“5. It is seen that in any examination provisional keys are published only to enable the candidates to submit their objections or views and, thereafter, after considering the objections received thereto, if any, the authorities publish the final keys and basing on the same, results would be announced. As long as the same is done without any discrimination towards any particular candidate, the action of the authorities cannot be found fault with.

6. Further, it is for the authorities to decide which answer is the right answer for the question, unless it is alleged and established that particular answer decided by the authorities to a particular question is against the record and established principles.

7. In the circumstances and for the aforesaid reasons, the O.A. is dismissed being devoid of any merit. No order as to costs”.

2. Now the Review Applicant has filed the present RA bearing No.37/2018 for reviewing the indicated order, mainly on the ground that Tribunal has erred in not granting relief to the applicant though he was entitled for the same. In short, the applicant is trying to reargue the OA on merits, by way of the present review, which is impressible as per settled law.

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 vs. Sumitri Devi (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 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 25.01.2018 (Annexure-R-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 and no ground is made out to entertain the present

Review Application, which is accordingly dismissed in circulation. No costs.

(NITA CHOWDHURY)
MEMBER (A)

(V. AJAY KUMAR)
MEMBER (J)

RKS