

**Central Administrative Tribunal
Principal Bench
New Delhi**

RA No.44/2017
in
OA No.4127/2015

New Delhi this the 14th day of March, 2017.

**Hon'ble Mr. Raj Vir Sharma, Member (J)
Hon'ble Mr. K.N. Shrivastava, Member (A)**

Ms. Ashima,
W/o Shri Manoj Kumar Sakkarwal,
R/o House No.MU-63, 1st Floor,
Pitampura, Delhi-110034.

-Applicant

(By Advocate Shri Ajesh Luthra)

Versus

1. Govt. of NCT of Delhi
Through Chief Secretary,
IP Estate, 5th Floor,
Delhi Sachivalaya,
Govt. of NCT of Delhi
2. Delhi Subordinate Services Selection Board (DSSSB),
Through Secretary,
FC-18, Institutional Area,
Karkardooma,
Delhi-110009.
3. Director of Education (GNCT of Delhi),
Through Director,
Old Secretariat,
Delhi-110054.

- Respondents

(By Advocate Shri K.N. Singh)

O R D E R (By Circulation)

Mr. K.N. Shrivastava, Member (A):

Through the medium of this Review Application (RA), filed under Section 22 (3) (f) of the Administrative Tribunals Act, 1985, the review applicant has prayed for review of the Tribunal's order in OA No.4127/2015 dated 20.12.2016.

2. The applicant has contended in the RA that the Tribunal has not considered the judgment of Hon'ble High Court in the case of **Govt. of NCT of Delhi and Others v. Vikram Singh**, W.P. (C) No.4483/2012 in its totality. It is also contended that the Tribunal had earlier relied upon *ibid* judgment of Hon'ble High Court in deciding OA-3492/2015, OA-3725/2015 with OA No.3731/2015, copies of the Tribunal's judgments are enclosed with the RA. For these reasons, the applicant has prayed for review of the Tribunal's order.

3. The judgment of the Hon'ble Delhi High Court in **Vikram Singh** (supra) has been considered and analysed by the Tribunal while passing the order under review. Cogent reasons have been given as to the non-applicability of the Hon'ble High Court judgment. As regards the two judgments of the Tribunal in OA-3492/2015, OA-3725/2015 with OA No.3731/2015, cited by the review applicant in the RA, suffice to say that the orders of the Tribunal in these OAs were not before the Tribunal when the order

under review was passed. More so, these orders have been passed by the Bench of equal strength and as such this Bench is not bound by these judgments.

4. The applicant has failed to bring out any error on the face of order under review. Existence of an error apparent on the face of the record, is *sine qua non* for review of the order.

5. On the power of the Tribunal to review its own orders, the Hon'ble Supreme Court has laid down clear guidelines in its judgment in the case of **State of West Bengal & others Vs. Kamal Sengupta and another**, [2008 (3) AISLJ 209] stating therein that

“the Tribunal can exercise powers of a Civil Court in relation to matter enumerated in clauses (a) to (i) of sub-section (3) of Section (22) of Administrative Tribunal Act including the power of reviewing its decision.”

At Para (28) of the judgment, the principles culled out by the Supreme Court are as under:-

“(i) The power of 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 specific grounds

(iv) An error which is not self-evident and which can be discovered by a long process of reasoning, cannot be treated as a error apparent in the fact of record justifying exercise of power under Section 22(2) (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 a larger bench of the Tribunal or of a superior court*

(vii) *A decision/order cannot be reviewed under Section 22(3)(f).*

(viii) *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.*

(ix) *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.”*

6. For the reasons discussed in the foregoing paras, we do not find any merit in the RA. Accordingly, the RA is dismissed in circulation. No costs.

(K.N. Shrivastava)
Member (A)

(Raj Vir Sharma)
Member (J)

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