

**Central Administrative Tribunal
Principal Bench, New Delhi**

R.A. No.50/2018 in O.A. No.2013/2016

This the 17th day of April 2018

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

1. Sh. Narayan Ghosh (aged about 37 years)
s/o lae Pratul Chander Ghosh
r/o Nutun Bazar, PO Basistha, Guwahati-781029
2. Sh. Prafulla Kumar Sharma (aged about 54 years)
s/o Sh. Madunath Sharma
r/o Basistha Nagar, Guwahati-781029
3. Sh. Samin Chander Deka (aged about 52 years)
s/o Haren Chander Deka
r/o Vill Bardanga, Batakuchi, PO Dhuhibala
Kamrup, Guwahati, Assam
4. Sh. Balen Chander Das (aged about 52 years)
s/o late Bipen Das
r/o 151, Base Hospital Complex, PO Basistha,
Guwahati, Assam 781029
5. Mrs. Laichari Boro w/o late Sh. Bhavesh Chander Boro
(Aged about 48 years)
r/o PO Amingoan, PS Jalukbari, Kamrup
Guwahati, Assam -781031
6. Sh. Jogen Das (aged about 53 years)
s/o Sh. Raju Das
r/o Vill Pandu, PS Jalukbari, Kamrup
Guwahati, Assam -781031
7. Sh. Jivan Chander Deka (Aged about 54 years)
s/o Sh. Bhabendra Deka
r/o Vill Bengali Basi,
PO Basistha, Guwahati-781029
8. Sh. Barendra Chander Das (Aged about 51 years)
s/o Bama Chander Das
r/o Vill. Arunduti, Basistha, Guwahati-781029
9. Sh. Nirmal Saikia (Aged about 49 years)
s/o late Dimbeswar Saikia
r/o Dakin Ganesh Nagar, PO Basistha
Guwahati-781029

10. Sh. Chanakya Das (Aged about 46 years)
s/o late Gargo Ram Das
r/o 151, Base Hospital Complex, PO Basistha
Guwahati-781029
11. Smt Anita Raj Thapa (aged about 46 years)
d/o late Lal Bahdur Thapa
r/o South Basistha Nagar, Guwahati-781029
12. Sh. Paresh Chander Deka (Aged about 41 years)
s/o late Falik Chander Deka
r/o VPO Sariket, Kamrup, Assam 781031
13. Sh. Ranjan Thapa (aged about 32 years)
s/o Sh. Dhan Bahadur Thapa
r/o 151, Base Hospital Complex, PO
Basistha, Guwahati – 29
14. Sh. Soneswar Basumatary (Aged about 39 years)
s/o Sh. Penu Ram Boro
r/o 151, Base Hospital Complex, PO Basistha
Guwahati – 29
15. Sh. Chabin Das (Aged about 51 years)
s/o late Maya ram Das
r/o 151, Base Hospital Complex, PO Basistha
Guwahati – 29
16. Sh. Laxman Prasad (aged about 57 years)
s/o late Nand Kishore Ram
r/o 151 Base Hospital Complex
PO Basistha, Guwahati – 29

..Applicants

Versus

Ministry of Defence through

1. Dte Gen of Medical Services (Army)
Adjutant General's Branch
Army Headquarters
L Block, New Delhi – 110 001
2. Dte Gen of Armed Forces Medical Services
Min of Defence, AHQ
M Block, New Delhi 110 001
3. Commandant
151, Base Hospital
C/o 99 APO

..Respondents

O R D E R (in circulation)

Through the medium of this R.A., review of order dated 13.02.2018 passed in O.A. No.2013/2016 has been sought. The operative part of the said order reads as under:-

“9. The impugned Annexure A-3 letter dated 17.11.2005 of Ministry of Defence, in the context of Hospitals/Medical Establishments of the three Services (Army, Navy & Air Force) clearly stipulates the categories of Groups ‘C’ & ‘D’ employees, who are entitled for receiving HPCA/PCA. While doing so, the Ministry was well aware of the various denominations of Group ‘D’ employees existing in the hospitals of these three Services. The letter makes it clear that the categories of Group ‘D’ employees to whom the applicants belong, are not entitled for HPCA/PCA. The authorities concerned must have taken into consideration the nature of work that are being done by different categories of the Group ‘D’ employees of the hospitals. There is no question of any illegality involved in such classification. The attempt made by the applicants to seek parity with the employees of Hospitals/Medical Establishment coming under the administrative control of Ministry of Health & Family Welfare is too farfetched.”

2. It is stated that through M.A. No.2838/2017 in O.A. No.2013/2016, it was brought to the notice of the Tribunal that applicant No.5 in the O.A., namely, Shri Bhavesh Chander Boro died on 13.05.2017 and that his legal heir, namely, Smt. Laichari Boro, i.e., widow of the deceased, may be brought on record in his place. The said M.A. was allowed by the Tribunal vide order dated 23.10.2017. It is thus stated that in the order under review, the order of the Tribunal dated 23.10.2017 in M.A. No.2838/2017 has not been given effect to and the name of deceased has been erroneously continued.

3. From the perusal of the records, I find that the contention of the review applicant (Smt. Laichari Boro) is correct and inadvertently, the

name of legal heir in place of deceased applicant No.5 (Shri Bhavesh Chander Boro) has not been substituted. Accordingly, the Registry is directed to make the necessary changes in the array of parties mentioned in the order dated 13.02.2018 in O.A. No.2013/2016 and replace the name of late Shri Bhavesh Chander Boro (applicant No.5) by Smt. Laichari Boro.

4. The grounds pleaded in the R.A. would indicate that the review applicant (Smt. Laichari Boro) has tried to reargue the matter, which is not permissible in law. No apparent error in the substantive part of the order under review has been brought out by the review applicant.

5. It is settled law that *sine qua non* for seeking review is existence of some error apparent on the face of the record. 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 v. 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 paragraph (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. In view of it, I do not find any merit in the R.A. It is accordingly dismissed.

(K.N. Shrivastava)
Member (A)

April 17, 2018
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