

**Central Administrative Tribunal
Principal Bench**

**RA No.53/2017
MA No.545/2017
in
OA No.1664/2016**

New Delhi, this the 17th day of March, 2017

**Hon'ble Mrs. Jasmine Ahmed, Member (J)
Hon'ble Mr. P. K. Basu, Member (A)**

Tarun Kataria, Aged 28 years,
Group-C
S/o Sh. Satnarain,
R/o M-29, Vijay Nagar,
Bawana, Delhi-110 039. ... Applicant

Versus

1. Union of India through
Secretary,
Ministry of Health & Family Welfare,
Nirman Bhawan,
New Delhi – 110 108.
2. Director General of Health Services,
Ministry of Health & Family Welfare,
Nirman Bhawan,
New Delhi – 110 108.
3. Medical Superintendent,
Dr. R.M.L. Hospital,
New Delhi – 110 001. ... Respondents

ORDER (By Circulation)

By Hon'ble Mrs. Jasmine Ahmed, Member (J):

By means of this Review Application, the review applicants have sought review of the Tribunal's order dated

12.05.2016 whereby, after having satisfied that there are some blatant discrepancies in the select list, notices were issued to the respondents and, as an *ad interim* measure, a direction was issued to the respondents not to give effect to the final select list dated 26.04.2016.

2. The only ground taken by the review applicants in the instant RA is that due to the interim order they are facing hardship which, in our considered opinion, cannot be a ground for review of the Tribunal's order. We are also of the view that the review applicants by taking the aforesaid ground are trying to re-agitate the matter afresh which does not lie within the scope of judicial review. It is to be reiterated that a review application is not an appeal in disguise or a fresh hearing and for that the proper remedy is to file an appeal before the appropriate forum/superior court and the RA is filed when there are error apparent on the face of the order to be reviewed.

3. In case of **West Bengal & Ors Vs. Kamalsengupta & Anr.** [2008(8) SCC 612], the Hon'ble Supreme Court after having considered the important decisions on the subject and defined the difference between the review and appeal, has held as follows:-

“35. The principles which can be culled out from the above noted judgments are :

- (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."*

4. It is apparent from the above that the scope of the review is in very narrow compass. It has already been covered that there is a difference between appeal and review. A review is not disguised appeal. What the review applicants have sought to convince us that because of the

interim order passed by the Tribunal, they are facing hardship and such a ground could have only been taken in appeal. The instant RA is a misplaced application and the better course would have been to move an application for vacation of the interim order dated 12.05.2016 passed by this Tribunal.

5. Having considered the submissions of the review applicants and in view of our above discussion, we find that there is no error apparent on the face of the order under review. Hence, the RA lacks merit and the same stands dismissed by circulation leaving the parties to bear their own costs. MA No. 545/2017 seeking condonation of delay also stands dismissed.

(P.K. Basu)
Member (A)

/naresh/

(Mrs. Jasmine Ahmed)
Member (J)