

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

R.A. No.55/2017  
In  
O.A.No.1787/2014

This the 21<sup>st</sup> day of March, 2017.

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

Manohar Singh Chana (Age 71 years)  
s/o late Mr. Sampuran Singh  
Ex. AIO-II (Tech./IB)  
B-33, Bhagwati Garden, Uttam Nagar, New Delhi - 59

....Applicant

**VERSUS**

1. Union of India through the Secretary  
Ministry of Home Affairs  
North Block, New Delhi -1.
2. The Director  
Intelligence Bureau (MHA)  
North Block, New Delhi-1.
3. Mr. J N Sharma  
Then ACIO-II.
4. Mr. J R Yadav  
Then ACIO-II.
5. Mr. R S Luthra  
Then ACIO-II and
6. Mr. S C Dhawan  
Then ACIO-II  
c/o The Director, Intelligence Bureau (MHA)  
North Block, New Delhi -1.

..Respondents

**O R D E R (By Circulation)**

**Mr. K.N. Shrivastava:**

The review applicant through the medium of this Review Application (RA) filed under Section 22 (3) (f) of the Administrative Tribunals Act, 1985 has prayed for review of the Tribunal's order dated 20.12.2016 in OA No.1787/2014, dismissing the said OA filed by the applicant. The Tribunal has made the following observations while dismissing the OA:

“5. The applicant joined IB on 01.03.1968. His expectation was that after four years of service he should have been promoted to the grade of ACIO-II (Tech.). For the reasons, described in paragraph (2) above, his case for promotion was finally considered by the respondents pursuant to the order of the Division Bench of the Hon'ble High Court of Delhi and he was promoted to the post of ACIO-II (Tech.) on *ad hoc* basis w.e.f. 24.12.1974 and subsequently he was regularized vide order dated 29.06.2001 from retrospective effect, i.e., 11.05.1976. The applicant has thereafter entered into prolonged litigation right up to the Hon'ble Supreme Court for unsettling the seniority, which had been turned down. The applicant in this O.A. has prayed that his case should not be compared with that of respondent No.5. In fact, surrogately, he has attempted to unsettle the decisions of this Tribunal, High Court of Delhi and the Apex Court in regard to his *inter se* seniority with respondent No.5, which cannot be allowed, as the principle of *res judicata* would operate. As such, the prayer made in the O.A. cannot be granted.”

2. The applicant has prayed for review of the *ibid* order of the Tribunal on the following grounds:

i) The Tribunal without considering the facts of the case came to the conclusion that the issues raised in the OA have already been adjudicated and settled by the Courts and hence principle of *res judicata* would operate. As a matter of fact, the facts of this case are entirely different.

ii) The Tribunal has relied upon the judgment of the Hon'ble Supreme Court in **B.S. Bajwa & another v. State of Punjab & others**, JT 1998 (1) SC 57 but the ratio of the said judgment would not apply to the applicant's case because the facts of the case are entirely different.

iii) The applicant is not responsible for any delay caused in filing the OA because LPA No.216/1980 was decided in the year 2000, i.e., after long delay of 20 years despite specific orders of the Division Bench of the Hon'ble High Court declared that the applicant belonged to the Technical Cadre. There has also been delay at the end of the respondents in declaring the seniority of the applicant.

iv) The Tribunal did not consider the fact that the applicant received copies of the Annexure A-1, A-2 and A-3 after disposal of the Writ Petition by the Hon'ble High Court which are relevant and crucial for deciding the *lis* between the parties and that after receipt of the said judgment fresh cause of action arose in favour of applicant for filing OA No.1787/2014.

v) All private respondents have already retired from service and as such no prejudice would be caused to them if the OA is allowed and notional promotion is granted to the applicant.

vi) In the impugned judgment, the Hon'ble Tribunal has held and observed as under:

“2.2 Between the years 1992 and 1996, several officers in the Technical Wing, purported to be juniors of the applicant, were promoted to the higher position of ACIO-II/Tech. when the applicant was not considered for promotion. Being aggrieved, he filed CWP No.1429/1979 in the Hon'ble High Court of Delhi.....”

Evidently error apparent on the face of the record exists because the applicant cannot file CWP No.1429/1979 with respect to promotions between 1992 and 1996 since the IB has not complied with the orders of Hon'ble CAT/High Court despite Ld. Sr. Central Govt. Counsel's letter dated 19.03.2009 (Annexure-A-13) to the Director, Intelligence Bureau requesting for copies of the orders of promotion of R-3, R-4 and R-6 as ACIO-II and ACIO-I.

3. 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.

4. 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 an 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."*

5. 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)**

‘San.’