

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

R.A. No. 63/2016 in
O.A. No. 4402/2013

Reserved on: 26.07.2016
Pronounced on: 1.08.2016

**HON'BLE MR. P.K. BASU, MEMBER (A)
HON'BLE MR. RAJ VIR SHARMA, MEMBER (J)**

1. Mahi Pal Singh Verma
S/o Shri Kishan Singh
R/o 243, Village – Dalupura
Delhi – 110096
2. Narender Kumar
S/o Shri Manohar Lal
R/o A1/1-2, New Kondli
Delhi-110096
3. Ramvir Singh
S/o Shri Isham Singh
R/o B-3/14, Yamuna Vihar,
Delhi-53
4. Dharmvir Singh
S/o Shri Jai Ram Singh
R/o 19-B, Dilshad Garden
Delhi
5. Sharad Kumar
S/o Shri Ram Prakash
R/o X/1134B, New Chand Mohalla
Gandhi Nagar, Delhi
6. Virendra Kumar
S/o Shri Har Parshad Sharma
R/o 3A/ Plot No.11, Sector-3
Vaishali, Ghaziabad
7. Dharm Singh

S/o Late Shri Sabha Chand
R/o D-7/100, Gali No.7
Dayal Pur Colony, Delhi-110094

8. Krishan Gopal Bhardwaj
S/o Shri Inder Sain
R/o A-98, Sector-12, Noida
U.P.
9. Suresh Kumar
S/o Shri Raghuvir Singh
R/o D1/92, Gali No.3
Ashok Nagar, Delhi-93
10. Devender Kumar
S/o Shri Banwari Lal
R/o 349-A/2, Bhola Nath Nagar
Shahdara, Delhi-32
11. Surender Singh Chouhan,
S/o Shri Ved Prakash
R/o A1-91/54, East Gokal Pur
Delhi
12. Purushottam Kumar Gupta
S/o Late Shri Ved Prakash
R/o 858, Gali no.2, Jwala Nagar
Shahdara
13. Subhash Chand
S/o Shri Devi Charan
R/o 4/166 Purana Tejab Mill
Bhola Nath Nagar,
Shahdara, Delhi-32

Through LRs

Bhanu Pratap Singh
Aged about 29 years
S/o Late Shri Subhash Chand

Smt. Sunita Devi
Aged about 55 years
W/o Late Shri Subhash Chand

14. Charan Singh
S/o Shri Hari Ram,
B-878, Gharoli Dairy Farm

Delhi-92

15. Ram Avtar
S/o Shri Netrapal
R/o A-52, Gali No.3
Punjabi Colony,
South Gamri, Delhi-52
16. Mahinder Kumar Bhardwaj
S/o Late Shri Kundan Lal Bhardwaj
R/o 6/6 Pana Udyan, Narela
Delhi-110040
17. Babu Ram Yadav
S/o Late Shri Lakhmi Chand
R/o A-2/141, Sec-5, Rohini
Delhi-110085
18. Jitender Kumar Gupta
S/o Late Shri Shambhu Dayal Gupta
R/o 4293, Gali Bahuji
Pahari Dheeraj, Sadar Bazar
Delhi-110006
19. Brahm Prakash Bhardwaj
S/o Shri Chander Bhan
R/o QU17A, Pitam Pura,
Delhi-110034
20. Ashok Kumar
S/o Shri Ram Kishan
R/o 140, Khera Khurd
Delhi-110082

....Applicants

(Through Shri M.K. Bhardwaj, Advocate)

Versus

North Delhi Municipal Corporation & ors. through

1. The Director
Local Bodies
New Secretariat,
IP Estate, New Delhi
2. The Commissioner
North Delhi Municipal Corporation

Civic Centre, New Delhi

3. The Commissioner
South Delhi Municipal Corporation
Civic Centre, New Delhi

4. The Commissioner,
East Delhi Municipal Corporation
Civic Centre, New Delhi

.. Respondents

(Through Shri R.K. Jain and Shri K.M. Singh, Advocates)

ORDER

Mr. P.K. Basu, Member (A)

This Review Application (RA) has been filed for review of our order dated 23.02.2016 in OA 4402/2013.

2. The first ground taken by the applicants is that one of the applicants namely Shri Subhash Chand had died during the pendency of OA on 27.01.2015 and his LRs were not brought on record. Since the LRs were not brought on record, no order could be passed against a died person. Hence the order passed by the Tribunal is required to be recalled in terms of the judgments of the Hon'ble Supreme Court in **Rajender Prasad Vs. Kirodhar Mahto**, 1994 Supp. (3) 314 and **Amba Bai Vs. Gopal**, (2001) 5 SCC 570. In this regard, provision of Rule 18 of the Central Administrative Tribunal (Procedure) Rules 1987 provides as follows:

“18. Substitution of legal representatives – (1) In the case of death of a party during the pendency of the proceedings before the Tribunal, the legal representatives of the deceased party may apply within ninety days of the date of such death for being brought on record as necessary parties.

(2) Where no application is received from the legal representatives within the period specified in sub-rule (1), the proceedings against the deceased party shall abate:

Provided that on good and sufficient reasons the Tribunal, on an application, may set aside the order of abatement and substitute the legal representatives.”

3. Clearly the applicants failed to bring on record within 90 days the legal representatives of the deceased and, therefore, as per rule 18 (2), the proceedings against the deceased party shall abate and thus, this ground for review is rejected.

4. The other grounds namely grounds (B) to (H) agitated are nothing new and these had been agitated during hearing of OA and discussed at length in our order. As regards ground (I), this was not even a prayer in the OA and hence there was no question of any order on this aspect.

5. Lastly, it would be seen from para 16 of our order that we had held that the OA is not maintainable on the ground that departmental remedies available to them had not been exhausted.

6. We have also considered the law settled by the Hon'ble Supreme Court regarding scope of review application before the Tribunal, specifically in **Kamlesh Verma Vs. Mayawati and**

Others, (2013) 8 SCC 320, wherein the Hon'ble Supreme Court has laid down the following contours with regard to maintainability, or otherwise, of review petition:

“20. Thus, in view of the above, the following grounds of review are maintainable as stipulated by the statute:

20.1 When the review will be maintainable:

- i) Discovery of new and important matter or evidence which, after the exercise of due diligence, was not within knowledge of the petitioner or could not be produced by him;
- ii) Mistake or error apparent on the face of the record;
- iii) Any other sufficient reason.

The words “any other sufficient reason” have been interpreted in *Chhajju Ram v. Neki* (AIR 1922 PC 122) and approved by this Court in *Moran Mar Basselios Catholicos v. Most Rev. Mar Poulouse Athanasius* (AIR 1954 SC 526) to mean “a reason sufficient on grounds at least analogous to those specified in the rule”. The same principles have been reiterated in *Union of India vs. Sandur Manganese & Iron Ores Ltd.* (2013 (8) SCC 337).

20.2 When the review will not be maintainable:

- i) A repetition of old and overruled argument is not enough to reopen concluded adjudications.
- ii) Minor mistakes of inconsequential import.
- iii) Review proceedings cannot be equated with the original hearing of the case.
- iv) Review is not maintainable unless the material error, manifest on the face of the order, undermines its soundness or results in miscarriage of justice.
- v) A review is by no means an appeal in disguise whereby an erroneous decision is reheard and corrected but lies only for patent error.

- vi) The mere possibility of two views on the subject cannot be a ground for review.
- vii) The error apparent on the face of the record should not be an error which has to be fished out and searched.
- viii) The appreciation of evidence on record is fully within the domain of the appellate court, it cannot be permitted to be advanced in the review petition.
- ix) Review is not maintainable when the same relief sought at the time of arguing the main matter had been negatived.”

Further, in **State of West Bengal and others Vs. Kamal Sengupta and another**, (2008) 8 SCC 612, the Hon’ble Supreme court scanned various earlier judgments and summarized the principles laid down therein which read thus:

- “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 CPC.
 - (ii) The Tribunal can review its decision on either of the grounds enumerated in Order 47 Rule 1 CPC.
 - (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.”

7. In the light of the above judgments as well as facts narrated above, the RA is dismissed.

(Raj Vir Sharma)
Member (J)

(P.K. Basu)
Member (A)

/dkm/