

**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH**

R.A. No.83/2017
In
O.A. No.3595/2013

New Delhi this the 6th day of April, 2017.

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

1. Mrs.Krishan Kanta Sharma
W/o J.M.Sharma
R/o 222, Dhruv Apartment,
I.P.Extension, Delhi-92.
2. Mrs.Usha Bajaj
W/o Shri N.N.Bajaj
R/o C-202, Pandav Nagar,
Delhi-92.
3. Mrs. Indu Arora
W/o Shri A.K.Arora
R/o A-115, Dayanand Colony,
Lajpat Nagar, New Delhi-24.
4. Mrs. Prem Lata
W/o Shri Pramod Kumar,
R/o 16/303, Sangam Vihar,
New Delhi-62.
5. Mrs.Swaran Lata
W/o Shri Devki Nandan,
R/o H.No.1900, Gali No.54,
L Block, Badarpur, New Delhi.

-Applicants

Versus

1. East Delhi Municipal Corporation
Through its Commissioner,
Udyog Sadan, Patparganj Industrial Area,
Delhi-92.
2. South Delhi Municipal Corporation,
Through its Commissioner,
Dr. Shyama Prasad Mukherji Civic Centre,
JLN Marg, New Delhi-110002.

3. Director, (South) Community Service Department,
Municipal Corporation of Delhi
Dr. Shyama Prasad Mukherjee Civic Centre,
Jawahar Lal Nehru Marg,
Delhi-110002.
4. The Director,
Community Service Department,
East Delhi Municipal Corporation of Delhi
Udyog Sadan, Patparganj Industrial Area,
Delhi-110092.

-Respondents

O R D E R (By Circulation)

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

This Review Application (RA) has been filed by the review applicants under Section 22 (3) (f) of the Administrative Tribunals Act, 1985 read with Rule 17 of the Central Administrative Tribunal (Procedure) Rules, 1987, praying for review of this Tribunal's order dated 06.02.2017 in OA No.3595/2013. The review applicants who were original applicants in the OA had prayed in the OA for allowing the period of service rendered by them as Community Workers (Part Time) to be counted for service benefits including financial upgradation under MACP Scheme. The said prayer was rejected by the Tribunal vide the order under review.

2. The review applicants in support of the prayer for seeking review of the Tribunal's order dated 06.02.2017 have urged the following important grounds:

i) The Tribunal has erred in recording at para-7 of the order that Recruitment Regulations for the post of Community Worker (Part Time) are different from those for the regular Community Workers in MCD. As a matter of fact, the minimum age for employment of regular Community Workers is also 18 years.

ii) Ms. Urmila Chopra, like the applicants, was appointed as a Community Worker (Part Time) but was made to work full time. On the basis of the Hon'ble High Court's judgement in her case titled **Urmila Chopra v. The Commissioner & Anr.**, [W.P. (C) No.148/1997, decided on 16.11.2005], she was granted the service benefits for the period when she had worked as a Community a Worker (Part Time). The Tribunal has erred in not allowing the claim of the applicants on the basis of the judgment of the Hon'ble High Court in the case of **Urmila Chopra** (supra).

iii) The Tribunal has massively erred in comparing the case of the applicants with that of **Nirmala v. M.C.D.** and **M.C.D. & Ors. v. Raj Bala Mann & Anr.** The applicants have been given the pension benefit counting their service for the period when they had worked as Community Workers (Part Time) unlike the petitioners in **Nirmala v. M.C.D.** and **M.C.D. & Ors. v. Raj Bala Mann.** The Tribunal has also erred in comparing the services of the applicants with those of Gramin Dak Sevek (GDS).

The other grounds pleaded in the RA are almost the same that were pleaded by the applicants in the OA.

3. A reading of the RA gives an impression as though an appeal has been filed against the order of this Tribunal dated 06.02.2017 in OA No.3595/2013. All the points raised in the RA have already been considered by the Tribunal while adjudicating the OA. The order also clearly states that the judgment of the Hon'ble High Court in the case of **Urmila** is an order in *personam* and not in *rem* and hence the decision in **Urmila Chopra** cannot be applied in the case of these applicants. The comparison of the service conditions of the applicants with those of GDS was only for the purpose of comparison and illustration.

4. The applicants have failed to bring out any apparent error on the face of order under review. However, if they are aggrieved by the order, the remedy for them lies in challenging the order before the superior courts. 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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