

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

**RA-96/2016
In OA-3821/2013**

New Delhi this the 11th day of May, 2016.

Hon'ble Sh. Shekhar Agarwal, Member (A)
Hon'ble Mr. Raj Vir Sharma, Member (J)

1. Secretary (NR),
Railway Board, Baroda House,
New Delhi.
2. General Manager (P),
Northern Railway,
Baroda House, New Delhi.
3. Medical Director,
Northern Railway, Central Hospital
Basant Lane, New Delhi. ... Respondents
(By Advocate: Sh. Kripa Shankar Prasad)
Versus

1. Vinod Kumari,
D/o Sh. Godraj Tailor,
R/o RZ-26 P/133, Gali No.30,
Indra Park, Palam Colony,
New Delhi-45.
2. Konthoujam Ashalata Devi,
W/o Sh. Gyaneshwar Singh,
R/o WE-127, 3rd Floor, Mohan Garden
Uttam Nagar, New Delhi-59.
3. Sukhvinder Kaur,
W/o Sh. Kulpreet Kaur,
R/o 158/01, Railway Colony,
Basant Lane, Paharganj,
New Delhi-55.
4. Neeru,
D/o Sh. Suresh Kumar,
R/o D-337, Inder Enclave,
Phase-2, New Maruti Devi
Public Scool, Mubarakpur Road,
Nagloi, New Delhi-86.
5. Jyoti,
D/o late Sh. Baldev Raj,
R/o late Sh. Baldev Raj,

- R/o F-167, Pandav Nagar,
Samaspur Road, Gali No.4,
New Delhi-91.
6. Sanglata Kaushal,
D/o Sh. Raj Kumar,
R/o 111-A, Railway Colony,
Thomson Road, New Delhi-02.
 7. Ramakant Pareek,
S/o Sh. Hari Nayayan Pareek,
R/o Village & Post-Bhasu,
Distt. Tonk (Rajasthan),
Pin Code-304505.
 8. Rajni Kant Lakhera,
S/o Sh. Ram Avtar,
R/o VPO-Barrod, Dist.-Alwar,
Rajasthan, Pin-301020.
 9. Rajender Kumar Gupta,
S/o Sh. Ramesh Chand Gupta,
R/o Karamchari Colony,
College Road, Gangapur City,
Dist.-Swaimadhapur,
Rajasthan, Pin-322201.
 10. Ghanshyam Yadav,
S/o Sh. Rameshwar Prasad,
R/o Village-Kuler, Post-Paota,
Dist-Jaipur,
Rajasthan, Pin-303106.
 11. Subhash Chander Yadav,
S/o Sh. Banwari Lal Yadav,
R/o Village & Post-Ballupura,
Distt.-Sikar(Rajasthan),
Pin-332718.
 12. Nathu Ram Sangwa,
S/o Sh. Hari Ram Sangwa,
R/o VPO-Tarnau, Dist.-Nagaur
(Rajasthan, Pin-341030.
 13. Nitesh Kumar Dron,
S/o Sh. Shiv Ram Dron,
R/o Village & Post-Nagla, Dulhe Khan,
Tehsil-Bari, Distt. Dholpur (Rajasthan),
Pin Code-328041.
 14. Virendra Singh Yadav,
S/o Sh. Ratan Singh Yadav,
R/o Village-Majari Kholi,

Post-Padamara Khurd,
Dist.-Alwar (Rajasthan)
Pin-301042.

ORDER (ORAL)

Mr. Shekhar Agarwal, Member (A)

This review application has been filed by respondents in the OA for review of order dated 10.07.2015 passed in OA No. 3821/2013.

The operative part of the order reads as follows:

“6. We, therefore, allow this O.A. and direct the respondents that the applicants would be entitled to the same benefits as have been allowed to the applicants of the aforesaid O.As. Arrears will also be accordingly admissible only from the date of filing of this O.A. These benefits shall be extended to them within a period of eight weeks from the date of receipt of a certified copy of this order. No costs.”

2. The respondents had earlier challenged this order before Hon'ble High Court of Delhi vide Writ Petition No. 11930/2015. The aforesaid petition was disposed of by the Hon'ble High Court on 21.12.2015 by the following order:

“ Present writ petition has been filed by the petitioner under Article 226/227 of the Constitution of India for quashing and setting aside the order dated 10.07.2015 passed by the Central Administrative Tribunal in O.A. No. 3824/2013.

After some hearing in the matter, learned counsel for the petitioner submits that she would file a review before the Tribunal.

In case, review is filed within four weeks from today, the application seeking condonation of delay shall be considered sympathetically.

Accordingly, present writ petition and all pending application are disposed of.”

3. Accordingly, the respondents have filed this review application along with MA No. 1594/2016. In the aforesaid MA, the review applicants have prayed for staying the judgment dated 10.07.2015 during the pendency of the review application.

4. However, since the review application has been finally heard, this MA has become infructuous and is disposed of as such.

5. Learned counsel for the review applicant argued that after observing in para 4 of the judgment, that the OA applicants had been engaged on contractual basis, the Tribunal had erred in coming to the conclusion that they were entitled to payment of full salary and allowances.

6. In our opinion, the review applicants have not pointed out any error apparent on the face of the record in the judgment. They are questioning the findings arrived at by this Tribunal. If they were aggrieved by these findings, they should have approached appropriate judicial forum. Such prayer can not be entertained in a review application as it is beyond the scope of review.

7. While considering the scope of review, Hon'ble Supreme Court in the case of **Aribam Tuleshwar Sharma Vs. Aribam Pishak Sharma**, (1979) 4 SCC 389 referred to an earlier decision in the case of

Shivdeo singh Vs. State of Punjab, AIR 1963 SC 1909 and observed as under:-

"It is true as observed by this Court in **Shivdeo Singh v. State of Punjab**, AIR 1963 SC 1909, there is nothing in Article 226 of the Constitution to preclude a High Court from exercising the power of review which is inherent in every Court of plenary jurisdiction to prevent miscarriage of justice or to correct grave and palpable errors committed by it. But, there are definitive limits to the exercise of the power of review. The power of review may be exercised on the discovery of new and important matter or evidence which, after the exercise of due diligence was not within the knowledge of the person seeking the review or could not be produced by him at the time when the order was made; it may be exercised where some mistake or error apparent on the face of the record is found; it may also be exercised on any analogous ground. But, it may not be exercised on the ground that the decision was erroneous on merits. That would be the province of a Court of appeal. A power of review is not to be confused with appellate power which may enable an Appellate Court to correct all matters or errors committed by the Subordinate Court."

7.1 Similarly in the case of **Ajit Kumar Rath Vs. State of Orissa and Others**, AIR 2000 SC 85 the Apex Court reiterated that power of review vested in the Tribunal is similar to the one conferred upon a Civil Court and held:-

"The provisions extracted above indicate that the power of review available to the Tribunal is the same as has been given to a court under Section 114 read with Order 47 CPC. The power is not absolute and is hedged in by the restrictions indicated in Order 47. The power can be exercised on the application on account of some mistake or error apparent on the face of the record or for any other sufficient reason. A review cannot be claimed or asked for merely for a fresh hearing or arguments or correction of an erroneous view taken earlier, that is to say, the power of review can be exercised only for correction of a patent error of law or fact which stares in the face without any elaborate argument being needed for establishing it. **It may be pointed out that the expression "any other sufficient reason" used in Order 47 Rule 1 means a reason sufficiently in the rule.**

Any other attempt, except an attempt to correct an apparent error or an attempt not based on any ground set out in Order 47, would amount to an abuse of the liberty given to the Tribunal under the Act to review its judgment."

[Emphasis added]

7.2 In the case of **Gopal Singh Vs. State Cadre Forest Officers' Assn. and Others** [2007 (9) SCC 369], the Apex Court held that after rejecting the original application filed by the appellant, there was no justification for the Tribunal to review its order and allow the revision of the appellant. Some of the observations made in that judgment are extracted below:-

"The learned counsel for the State also pointed out that there was no necessity whatsoever on the part of the Tribunal to review its own judgment. Even after the microscopic examination of the judgment of the Tribunal we could not find a single reason in the whole judgment as to how the review was justified and for what reasons. No apparent error on the face of the record was pointed, nor was it discussed. Thereby the Tribunal sat as an appellate authority over its own judgment. This was completely impermissible and we agree with the High Court (Justice Sinha) that the Tribunal has traveled out of its jurisdiction to write a second order in the name of reviewing its own judgment. In fact the learned counsel for the appellant did not address us on this very vital aspect."

8. We, therefore, find no merit in this RA and dismiss the same in limine.

(Raj Vir Sharma)
Member (J)

(Shekhar Agarwal)
Member (A)

/ns/