

**Central Administrative Tribunal
Principal Bench**

RA No.129/2016
In
OA No.3072/2014

Date of Decision: 16.07.2016.

**Hon'ble Mr. Justice M.S. Sullar, Member (J)
Hon'ble Mr. K.N. Shrivastava, Member (A)**

Jai Narain Gupta,
S/o Sh Nathu Lal Gupta,
Assistant Engineer,
Office of SE (HQ), East Zone,
16th Floor, Vikas Minar,
New Delhi.

-Applicant

-Versus-

1. Delhi Development Authority,
Through Lt. Governor (as Chairman, DDA)
LG House, Delhi-110054.
2. The Vice Chairman,
Delhi Development Authority,
Vikas Sadan, INA,
New Delhi-110023.
3. Engineer Member,
Delhi Development Authority,
Vikas Sadan, INA,
New Delhi-110023.

-Respondents

O R D E R (By Circulation)

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

This Review Application (RA) has been filed under Section 22 (3)(f) of the Administrative Tribunals Act, 1985 seeking review of this Tribunal's order dated 31.05.2016 in OA

no.3072/2014. The grounds urged in the RA for seeking review of the order are as under:

- "a) Because the Order dated 31.05.2016 contains a very minor anomaly wherein the word "pension" is mentioned instead of "increment of pay".*
- b) Because the Applicant is in service and is not retired and as such the word 'pension' is redundant and quite naturally it may be modified as "increment of pay"*
- c) Because there is no time-limit prescribed for the implementation of the order and Respondents are taking undue advantage of the minor omission by depriving the Applicant from justice.*
- d) Because applicant has accepted and bowed down before the order but for very minor anomaly which is corrigible.*
- e) Because the Applicant has suffered financial loss and mental agonies due to denial of justice by the Respondents.*
- f) Because this Applicant is being filed within the limitation period prescribed for the purpose of filing Review Application.*
- g) Because Respondents have not initiated the process for implementing the orders.*
- h) Because the Applicant has good cause for getting this Review Application allowed in the interest of justice.*
- i) Because Applicant has not filed any appeal before any other court qua the aforesaid orders."*

2. 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.”

3. From perusal of the records, it is noticed that the applicant is still in service. Thus, para-7 of the order under review needs modification. We also accept the plea of the applicant that the directions given to the respondents should be made time bound. In view of it, we order that para-7 of the order under review should be modified as under:

“7. In view of the discussion in the foregoing paras, we quash and set aside the Annexure A-2 order dated 19.03.2012 passed by the AA and Annexure A-3 order dated 10.03.2014 passed by the RA. We also hold that the applicant is not at all guilty of the charge levelled against him and as such his increment of pay should be restored. This shall be done by the respondents within a period of one month from the date of receipt of a certified copy of this order. The OA is allowed. ”

4. The Registry is directed to substitute this modified para-7 in the order dated 31.05.2016. The RA is allowed in the aforesaid terms. No costs.

(K.N. Shrivastava)
Member (A)

(Justice M.S. Sullar)
Member (J)

‘San.’