

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

**RA-320/2015 in
OA-3862/2015**

New Delhi this the 22nd day of December, 2015.

Hon'ble Mr. Justice L.N. Mittal, Member (J)
Hon'ble Mr. Shekhar Agarwal, Member (A)

Smt. Binder Devi, aged about 45 years
S/o Sh. Raj Kumar,
R/o C-17, 682, Ganesh Nagar-II,
Sakar Pur, New Delhi-110092.

..... Review Applicant

Versus

1. Union of India, through the Secretary,
Department of Culture,
M/o Tourism & Culture, Govt. of India,
Shastri Bhawan, New Delhi-110001.
2. The Director, North Central Zone,
Culture Centre,
14-C.S.P Singh Marg,
Allahabad-211001.
3. The Director,
North Central Zone,
Culture Centre Delhi Sub-Centre,
Janpath Bhawan, IIIrd Floor,
Janpath, New Delhi.

.... Respondents

O R D E R (By Circulation)

Mr. Shekhar Agarwal, Member (A)

This Review Application has been filed for review of our order dated 16.10.2015 by which the OA of the applicant was dismissed at the admission stage itself. The review applicant has claimed that certain new information has come to his notice, which was not available at the time of filing of the OA. According to her, she was not aware that all 31 vacancies of Group-D employees have been filled as according to the documents filed by the respondents only 11 vacancies had been filled upto 19.04.2000 on which date

the applicant herein completed more than six years of service. She has also alleged that the respondents have regularized her juniors and ignored her claim. Thus, the applicant has faced hostile discrimination.

2. We have considered the aforesaid submission of the review applicant. The contention of the review applicant that she was not aware of all 31 vacancies of Group-D employees having been filled, in our opinion is baseless. This is because with her own OA, she has attached at page-21 of the paper-book an order dated 25.07.2014 passed by the Director, North Central Zone, Culture Centre, Allahabad in which it is clearly mentioned that there were 31 sanctioned posts of Class-IV employees in the centre and none of them was vacant as on the date of passing of the order. Thus, the applicant cannot now contend that she was not aware that all 31 posts of Class-IV employees had been filled.

3. We have also perused the other grounds mentioned in the review application. None of them points to any error apparent on the face of the record in our order. The applicant in the garb of this review application is only trying to re-argue her case. If the applicant is aggrieved by our order, the remedy lies elsewhere. We cannot sit in judgment over our own order and re-hear the case. This is clearly outside the purview of review application.

3.1 While considering the scope of review, Hon'ble Supreme Court in the case of **Aribam Tuleswar 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."

3.2 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]

3.3 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."

4. Thus, we find no merit in this review application and the same is dismissed in circulation. No costs.

(Shekhar Agarwal)
Member (A)

(L.N. Mittal)
Member(J)

/Vinita/