

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

**RA-323/2015 in  
OA-2103/2015**

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

**Hon'ble Mr. Shekhar Agarwal, Member (A)**  
**Hon'ble Dr. Brahm Avtar Agrawal, Member (J)**

T.M. Sampath,  
S/o late Sh. Munisamy Mudaliar,  
Aged about 60 years  
Administrative Officer (Retired)  
Temporarily at C2-C/2/8 Janakpuri,  
New Delhi-110058.

..... Review Applicant

Versus

1. The Secretary to Government of India,  
Ministry of Water Resources, River  
Development & Ganga Rejuvenation,  
Shram Shakti Bhawan, Rafi Marg,  
New Delhi.
2. The Director General,  
National Water Development Agency,  
18-20, Community Centre,  
Saket, New Delhi-110017.
3. The Secretary,  
Department of Personnel & Training,  
Ministry of Personnel, Public Grievances  
& Pensions, North Block, New Delhi.
4. The Secretary,  
Department of Pension & Pensioner's Welfare,  
Ministry of Personnel, Public Grievances &  
Pensions, 3<sup>rd</sup> Floor, Lok Nayak Bhawan,  
New Delhi.

.... Respondents

**ORDER (By Circulation)**

**Mr. Shekhar Agarwal, Member (A)**

This Review Application has been filed by applicant of OA-2103/2015 for review of our order dated 30.10.2015 by which the aforesaid OA was dismissed. The review applicant has submitted that this Tribunal has dismissed his O.A.

based on presumptions and assumptions and on grounds, which were not there in the pleadings. He has further submitted that one of the reasons given for dismissal was that despite challenging appointments of Deputy Directors starting from 01.01.2000, the applicant had not arrayed anyone of them as parties and, therefore, OA was not maintainable on ground of non-joinder of necessary parties, whereas he had not prayed for quashing of any appointment.

2. On perusal of the record, we find that this ground is factually incorrect. This is because Clause-8(iv) of the OA, which deals with the relief prayed for by the applicant and has been quoted in the judgment itself reads as follows:-

“quash all the appointments made to the post of Deputy Director (Admn) on or after 1.11.2000.”

Hence, this ground of the applicant is dismissed.

3. The next ground taken by the applicant was that since he has not challenged any appointments made on or after 2000, it was wrong on the part of the Tribunal to conclude that this O.A. was barred by limitation as well. Again as mentioned above, the applicant has prayed for quashing of all appointments made to the post of Deputy Directors on or after 01.11.2000. The last of such appointments as mentioned in the OA was made in the year 2013 whereas the OA was filed on 28.05.2015. Thus, even this ground taken by the review applicant is factually incorrect.

4. The review applicant has also stated that the Tribunal has dismissed his OA on presumptions and assumptions as the grounds mentioned in the judgment were not part of the pleadings. However, on going through our judgment we find that the reasons for dismissal of the OA, such as, OA being barred by limitation, OA being not maintainable as declaration made by the applicant in Clause-vii of his OA was factually incorrect and unacceptable, OA assuming

the nature of PIL consequent to the retirement of the applicant etc. are our findings arrived at after perusal of the records of the case. It is not necessary that these findings should form part of the pleadings of either side. Hence, this ground of the applicant also does not have any substance.

5. Next the applicant has mentioned that NWDA is an autonomous body but it has to adhere all instructions of DoP&T whereas the Tribunal has wrongly concluded in its judgment that NWDA is free to frame its own Rules and Regulations regarding the service conditions of the employees. We notice that the applicant here is questioning the findings arrived at by this Tribunal. If he is aggrieved by the same, remedy lies elsewhere. It is beyond the scope of review application in which only error apparent on the face of the record can be corrected.

6. 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."

6.1 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]

6.2 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."

7. We, therefore, find no merit in this Review Application and the same is dismissed in circulation.

**(Dr. Brahm Avtar Agrawal)**  
**Member (J)**

**(Shekhar Agarwal)**  
**Member (A)**

/Vinita/