

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

R.A. No.324/2015 in O.A. No.2834/2014

Thursday, this the 11<sup>th</sup> day of February 2016

**Hon'ble Mr. A.K. Bhardwaj, Member (J)**

1. Guru Tegh Bahadur Hospital  
Through its Medical Superintendent  
Dilshad Garden, Shahadra, Delhi-32
2. The Secretary Health  
Govt. of NCT of Delhi  
New Secretariat, IP Estate  
New Delhi-2
3. Govt. of NCT of Delhi  
Through its Chief Secretary  
New Secretariat, IP Estate  
New Delhi-2

..Applicant

(Mr. Vijay Pandita, Advocate)

Versus

Mr. Sushil Kumar, aged 25 years  
s/o late Mr. Raj Kumar, Drive Group C  
r/o A-69, Staff Quarters, GTB Hospital  
Dilshad Garden, Shahdara, Delhi-32

..Respondent

(Mr. A.K. Behera, Advocate)

## **O R D E R (ORAL)**

**Mr. A.K. Bhardwaj:**

R.A. No.324/2015

In the Review Application filed on behalf of the original respondents, it has been espoused that depending upon the vacancies, 70 to 90 cases were recommended for appointment on compassionate grounds, thus it is not feasible and possible to give details of all such candidates in the speaking order.

2. It is *stare decisis* that after disposing of an issue by final order, the Courts/Tribunals become *functuous officio*. The only exception to the principle is Review Application, which may be entertained only when there is an error apparent on the face of record, some such documents, which could not be produced at the time of final adjudication despite due diligence, are brought to the notice of the Court with Review Application, or there is some other sufficient reason.

3. The scope of review proceedings could be articulated by Hon'ble Supreme Court in **Kamlesh Verma Vs. Mayawati and others**, (2013) 8 SCC 320, relevant excerpt of which reads thus:-

“20. Thus, in view of the above, the following grounds of review are maintainable as stipulated by the statute:

20.1. When the review will be maintainable:-

- (i) Discovery of new and important matter or evidence which, after the exercise of due diligence, was not within knowledge of the petitioner or could not be produced by him;
- (ii) Mistake or error apparent on the face of the record;
- (iii) Any other sufficient reason.

The words "any other sufficient reason" has been interpreted in *Chhajju Ram v. Neki*, [AIR 1922 PC 112] and approved by this Court in *Moran Mar Basselios Catholicos v. Most Rev. Mar Poulouse Athanasius & Ors.*, [(1955) 1 SCR 520], to mean "a reason sufficient on grounds at least analogous to those specified in the rule". The same principles have been reiterated in *Union of India v. Sandur Manganese & Iron Ores Ltd. & Ors.*, [JT 2013 (8) SC 275].

20.2. When the review will not be maintainable:-

- (i) A repetition of old and overruled argument is not enough to reopen concluded adjudications.
- (ii) Minor mistakes of inconsequential import.
- (iii) Review proceedings cannot be equated with the original hearing of the case.

(iv) Review is not maintainable unless the material error, manifest on the face of the order, undermines its soundness or results in miscarriage of justice.

(v) A review is by no means an appeal in disguise whereby an erroneous decision is reheard and corrected but lies only for patent error.

(vi) The mere possibility of two views on the subject cannot be a ground for review.

(vii) The error apparent on the face of the record should not be an error which has to be fished out and searched.

(viii) The appreciation of evidence on record is fully within the domain of the appellate court, it cannot be permitted to be advanced in the review petition.

(ix) Review is not maintainable when the same relief sought at the time of arguing the main matter had been negatived.”

4. The present Review Application does not fulfil the yardsticks laid down in the aforementioned judgment. Nevertheless, it is made clear that the review applicants (original respondents) are not required to comment upon all 70 to 90 recommended candidates, but they need to give details of only such candidates, who were considered along with original applicant by the Committee met on 17.02.2012 and 30.03.2012 and recommended for compassionate appointment.

5. Review Application stands disposed of. No costs.

**( A.K. Bhardwaj )**  
**Member (J)**

**February 11, 2016**  
/sunil/