

Central Administrative Tribunal  
Principal Bench: New Delhi

**RA No.293/2015**

in  
OA No. 3246/2012

New Delhi, this the 27<sup>th</sup> day of November, 2015

**Hon'ble Mr. Justice Syed Rafat Alam, Chairman**  
**Hon'ble Dr. B. K. Sinha, Member (A)**

Hasan Abdullah s/o A.W.B. Qadri,  
R/o 44-A, Okhla,  
New Delhi-110 025.

...Review Applicant

Versus

1. Union of India through  
Secretary to Govt. of India,  
Ministry of Water Resources,  
Shram Shakti Bhawan,  
Rafi Marg, New Delhi-110 001.
2. The Director,  
Central Soil and Materials Research Station,  
Olof Palme Marg, Hauz Khas,  
New Delhi – 110 016.
3. The Secretary, DOP&T  
Ministry of Personnel, Pension &  
Public Services, North Block,  
New Delhi.
4. The Chairman,  
U.P.S.C., Dholpur House,  
Shahjahan Road, New Delhi.

...Respondents

**ORDER (By Circulation)**

**By Dr. B.K. Sinha, Member (A):**

The instant review application has been filed by the applicant under Section 22(3)(f) of the Administrative Tribunals Act, 1985 seeking review of the Tribunal's common order dated 09.07.2015 passed in four connected OAs including OA No.3246/2012. The Tribunal, while disposing of four Original Applications considered each and every point raised by the rival

parties in its order under review. The relevant part of the order reads thus:-

*“30. Insofar as the last of the issues is concerned, we have seen that the scope and nature of FCS for Scientists in the respondent organization is not an open house policy but is rather restricted in character. We find that in some of the posts i.e. RO, SRO and CRO, the Scheme is governed by grant of next higher scale on attainment of eligibility, whereas in rest of the posts it becomes restrictive in character and is more like a selection grade. We have also seen that instant four OAs filed by the applicants are barred by limitation, and further even on the merits of the case, OAs are impermissible. We feel that the FCS being partly open and partly restrictive application has given rise to a series of litigation and counter litigation and the issue is becoming more and more complex. Even in the instant series of four Original Applications, we find that while S.K. Babbar figures as co-applicant in OA No.1785/2012, he has also filed his independent case that being OA No.2881/2013. In the same manner we find that Dr. Rajbal Singh and Hasan Abdullah, who are applicants herein, have also been respondents in other cases. This spate of litigation arises from basic flaw in structural design for which amendments are required in the rules itself. It is not for this Tribunal to suggest what kind of amendments would be necessary. However, we feel that the Seventh Central Pay Commission, which is in sitting, would apply its mind and come out with a fair Scheme to minimize the scope of litigation. Hence, we do not find any merit in all the instant four Original Applications, which are accordingly dismissed without there being any order as to costs.”*

2. We have carefully gone through the review application and found that the applicant by way of raising certain grounds has attempted to push through an appeal in disguise of instant review application so that the case is re-visited and/or re-heard. We do not see or perceive any patent error. Though possibility of being two views on the subject can always be there, but that does not form sufficient ground for review.

3. However, we would like to go into the basic issue as to what is the scope of review. We take cognizance of the fact that the Tribunal's power under Section 23(3)(f) of the A.T. Act, 1985 is akin to that of statutorily and judicially recognized powers of the civil courts. This is not a carte blanche authorization given to the courts to re-visit and re-hear cases. It is subject to Order 47 Rule 1 implying that the Tribunal can only review its order/decision on discovery of new and important matter or evidence which the applicant could not produce at the time of initial decision despite exercise of due diligence or the same was not within its knowledge or even the same could not be produced before the Tribunal earlier or the order sought to be reviewed suffers from some mistakes and errors apparent on the face of record or there exists some other reasons which, in the opinion of the Tribunal, are sufficient to review its earlier decision.

4. In a landmark decision in **West Bengal & Ors Vs. Kamalsengupta & Anr.** [2008(8) SCC 612], the Hon'ble Supreme Court after having considered the important decisions on the subject and defined the difference between the review and appeal, held as follows:-

*“35. The principles which can be culled out from the above noted judgments are :*

*(i) The power of the 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 specified 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 on the face of record justifying exercise of power under Section 22(3)(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 larger bench of the Tribunal or of a superior Court.

(vii) 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.

(viii) 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."

5. In another landmark decision in case of **Kamlesh Verma versus Mayawati & Ors.**[2013 (8) SCC 320], the Hon'ble Supreme Court has laid down conditions when the review will not be maintainable, relevant portion whereof is being extracted hereunder for better elucidation:-

*"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.”*

6. We find that in the OA we have considered the arguments of the parties at some length and have framed the following two issues, which are extracted hereunder:-

*1. What is the scope of Flexible Complementing Scheme for Scientists in Scientific and Technical Departments within the Central Soil and Materials Research Station, New Delhi (Group-A) Posts Recruitment Rules, 1983 (hereinafter referred to as Group-A Recruitment Rules, 1983)?*

*2. Whether the instant Original Applications filed by the applicants are barred by limitation?*

*3. Whether the promotions claimed by the applicants are permissible within the scope of the Group-A Recruitment Rules, 1983 as also the Guidelines of Flexible Complementing Scheme?*

*4. What relief, if any, could be granted to the applicants?*

7. We have discussed these issues in detail taking into account all the grounds which have now been raised in the instant review application.

8. In view of what has been discussed above, we are of the firm view that the grounds, which have been urged cannot be grounds for review of the order. We are also of the opinion that under the garb of review, a party cannot be allowed to reargue the matter on merit raising new points, which may be permissible before the

appellate forum, but not in review as enunciated by the Apex Court in ***Kamlesh Verma versus Mayawati & Ors.*** (supra).

9. We also take note of the fact that one similar RA No.244/2015 filed by Dr. Rajbal Singh (applicant in one of the four OAs bearing OA No.641/2011) seeking review of the common order dated 09.07.2015 has already been dismissed by this Tribunal taking into consideration the judgments of the Hon'ble Supreme Court, as referred above, in Circulation vide its order dated 24.09.2015.

10. Finding no merit in the instant Review Application, we dismiss the same in circulation without there being any order as to costs.

**(Dr. B.K. Sinha)**  
Member (A)

**(Syed Rafat Alam)**  
Chairman

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