

**Central Administrative Tribunal  
Principal Bench**

RA No.113/2018  
MA No.3323/2018  
In  
OA No.3171/2015  
CP No.428/2018

New Delhi this the 31<sup>st</sup> day of August, 2018.

**Hon'ble Mr. K.N. Shrivastava, Member (A)**  
**Hon'ble Mr. Ashish Kalia, Member (J)**

Union of India, Ministry of Home Affairs,  
Through Home Secretary, Govt. of India,  
New Delhi.

-Review Applicant

(By Advocate Ms. Kiran Ahlawat)

**-Versus-**

1. Smt. Kanwaljit Deol with of Shri S.B. Deol,  
IPS (Retd), aged about 60 years, R/o D-1/193,  
Satya Marg, Chanakyapuri, New Delhi.
2. The Secretary General,  
National Human Rights Commission,  
New Delhi.

(By Advocate Mr. S.N. Kaul)

**ORDER**  
**(ORAL)**

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

Through the medium of this Review Application (RA), filed under Section 22 (3)(f) of the Administrative Tribunals Act, 1985, readwith Rule 17 of Central Administrative Tribunal (Procedure) Rules, 1987, the review applicant, who was respondent no.1 in OA No.317/2015, which was disposed of vide order dated 11.12.2017,

has sought review of the *ibid* order; operative part of which reads as under:

“11. In view of the above circumstances, this OA is allowed. The respondents are directed to grant apex scale to the applicant w.e.f. the date Shri P. K. Mehta was granted the said scale, i.e., 19.05.2011. The respondents are further directed to re-determine the retiral benefits of the applicant in view of the grant of apex scale to her and work out the arrears to be paid to her from 19.05.2011 till the date of 8 superannuation of the applicant, i.e., 31.10.2014 within a period of two months from the date of receipt of certified copy of this order. Suffice it to say that in the event judgments passed in Shri R. N. Ravi and Shri O. P. S. Malik which are affirmed by the Hon’ble Delhi High Court are reversed by the Apex Court, the applicant would be liable to refund the benefit which she may receive by virtue of the present judgment and thus for this purpose this judgment shall remain subject to the outcome of Civil Appeal No.4648/2014 pending before the Apex Court.”

2. It is contended in the RA that Smt. Kanwaljit Deol came to central deputation and joined as DG, NHRC on 07.12.2012 and even her prayer in the OA was for a direction to the respondents in the OA to grant the Apex scale of Rs.80,000/- (fixed) to her from 07.12.2012 only, i.e., the date when she joined NHRC as DG. Her second prayer was that the respondents be directed to re-fix the pension on the basis of Apex scale of Rs.80,000/- (fixed) from the date of her superannuation, i.e., 31.10.2014. However, the Tribunal vide order under review has directed that the Apex scale shall be granted to her w.e.f. 19.05.2011, which was not even her prayer. Hence, there is an apparent error on the face of the Tribunal’s order.

3. The review applicant has further stated that the order of the Tribunal has been challenged by it before the Hon'ble High Court of Delhi in W.P. (C) No.7169/2018, wherein an interim direction vide order dated 13.07.2018 has been issued, which reads as under:

“1. The petitioner-UOI is aggrieved by a judgment dated 11.12.2017 where OA No.3171/2015 filed by the respondent before the Central Administrative Tribunal seeking directions to grant her the apex scale of Rs.80,000/- (fixed) w.e.f. 07.12.2012, the date when she had joined NHRC as Director General (Investigation) has been allowed and the petitioner has been directed to re-determine the retiral benefits of the respondent and work out the arrears payable to her from 19.05.2011 till the date of her superannuation i.e.31.10.2014 within a period of two months.

2. Subject to the petitioner's depositing the arrears as directed in the impugned order in the Registry within two weeks from today and upon filing process fee, notice be issued to the respondents by ordinary process and speed post, through counsel representing the respondent before the Tribunal as well, returnable before the Joint Registrar on 29th October, 2018.”

4. It is further stated that NHRC has been informed to implement the aforementioned direction of the Hon'ble High Court and NHRC is doing the needful. It is also stated that if this RA is not allowed by the Tribunal, it would amount to denial of justice to the review applicant and will put additional financial burden on the review applicant.

5. Pursuant to the notice issued, the respondent (original applicant in the OA) entered appearance and filed her reply, in which she has broadly stated as under:

5.1 The review applicant (respondent no.1 in the OA) has not yet implemented the order dated 11.12.2017 of the Tribunal in OA-3171/2015. As a result, the respondent/original applicant has been compelled to file a Contempt Petition under the relevant rules before this Hon'ble Tribunal, who was pleased to issue notice to the original respondent no.1 (review applicant) vide order dated 20.07.2018.

5.2 The review applicant has challenged the Tribunal's order dated 11.12.2017 before the Hon'ble High Court in W.P. (C) No.7169/2018) wherein an interim direction vide order dated 13.07.2018 has been issued to deposit the amount in terms of the Tribunal's order but even the order of the High Court has not been complied with.

5.3 The original applicant strongly objects to filing of the present RA, as it was unwarranted in view of the fact that the Tribunal's order has already been challenged by the original respondents before the Hon'ble High Court.

5.4 The RA has been filed after a long delay of 197 days. As per rules, it should have been filed within a period of 30 days.

5.5 The original respondent no.1 is somehow trying to circumvent the implementation of the Tribunal's order which should not be

allowed. As such, the RA deserves to be dismissed and an exemplary cost is required to be imposed on the review applicant.

6. Heard Ms. Kiran Ahlawat, learned counsel for the applicant and Shri S.N. Kaul, learned counsel for the respondent.

7. No doubt, the original applicant in the OA had prayed for a direction to the respondents to grant her Apex scale of Rs.80,000/- (fixed) w.e.f. 07.12.2012 when she joined on central deputation as DG, NHRC. The Tribunal, however, after noticing that Shri P.K. Mehta, who was junior to the applicant, was given a posting in the Central Government w.e.f. 19.05.2011 and thus became entitled for grant of pay scale of Rs.80,000/- (fixed), felt that for the reasons of parity, the original applicant should also be granted the Apex pay scale of Rs.80,000/- (fixed) from the same date. After all, posting of the officers from the panel, on deputation to the Central Government, is done at the discretion of the Central Government. In the event of Central Government picking an officer, junior in the panel and posting him/her on deputation to the Central Government earlier to those who are placed higher in the panel, it would be travesty of justice if their interest is not safeguarded. Thus, the Tribunal felt that for the reasons of parity, the Apex scale should be granted to the respondent (applicant in OA) who indisputably was higher in the panel vis-a-vis Shri P.K. Mehta from the date when Shri Mehta was given posting, on deputation basis,

in the Central Government. Accordingly, the Tribunal vide its order dated 11.12.2017 has directed the respondents to grant the Apex scale to the original applicant w.e.f. 19.05.2011, i.e., the date when her junior Shri P.K. Mehta was granted the said scale. As such, we do not find any error apparent in the Tribunal's order.

8. We find considerable force in the contention of the applicant (respondent in RA) that this RA was unwarranted in view of the fact that the Tribunal's order has already been challenged by the original respondents before the Hon'ble High Court of Delhi. If there is any discrepancy in the Tribunal's order in the assessment of the original respondents, they have the opportunity of getting it corrected in the Hon'ble High Court during the adjudication of the W.P.(C) No.7169/2018 filed by them against the Tribunal's order.

9. For the reasons mentioned hereinabove, we dismiss this RA, as we do not find any merit in it.

10. In view of the dismissal of the RA, MA No.3323/2018 also stands disposed of.

**(Ashish Kalia)**  
**Member (J)**

**(K.N. Shrivastava)**  
**Member (A)**

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