

**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH**

**R.A. No.197/2018
MA No. 4358/2018 In
O.A. No.2171/2015**

New Delhi this the 15th day of October, 2018

Hon'ble Ms. Nita Chowdhury, Member (A)
Hon'ble Mr. S.N. Terdal, Member (J)

Neelam Malik,
W/o Shri Jogender Malik,
D/o Sh. Tej Ram, H.No.279,
Sector-14, Sonipat, Haryana

- Review Applicant

Versus

1. Delhi Subordinate Services Selection Board,
(Through its Secretary)
FC-18, Institutional Area, Karkardooma,
Delhi-110092

2. Govt. of NCT of Delhi,
Through its Secretary of Education,
Delhi Secretariat, Players Building,
ITO, New Delhi-110002

- Respondents

ORDER BY CIRCULATION

MS. NITA CHOWDHURY:

MA No. 4358/2018 seeking condonation of delay in filing the present RA is allowed for the reasons stated therein.

2. The facts, in brief, are that while deciding the Original Application (OA) bearing No.2171/2015, this Tribunal considered all the issues raised by the Review Applicant and disposed of the same on merits on 27.07.2018 wherein the following orders were passed:-

“4. The main relief had already been given to the applicant on 16.06.2015 itself whereupon *the respondents were directed to issue an admit card to the applicant on provisional basis to participate in Tier-II Examination to be held on 28.06.2015.* The applicant appeared in the examination and as is clear from the information given by the respondents, her result has also been declared and uploaded by the

DSSSB. It has been found that she has not got the requisite marks to be appointed against the said post codes in UR category. Accordingly, nothing remains to be decided in this OA and the same is dismissed. The aforesaid MA also stands disposed of. No order as to costs.”

3. Now the Review Applicant has filed the present RA bearing No.197/2018 for reviewing the indicated order, mainly on the grounds which have already been considered by this Tribunal while deciding the main OA.

4. It is well settled principle of law that the earlier order can only be reviewed if the case squarely falls within the legal ambit of review and not otherwise. Order 47 Rule 1 CPC read with Section 22(3)(f) of the Administrative Tribunals Act, 1985 regulates the provisions of review of the orders. According to the said provision, a review will lie only when there is discovery of any new and important matter or evidence which, after the exercise of due diligence was not within his knowledge or could not be produced by the review applicant seeking the review at the time when the order was passed or *made on account of some mistake or error apparent on the face of the record*. It is now well settled principle of law that the scope for review is rather limited and it is not permissible for the forum hearing the review application to act as an Appellate Authority in respect of the original order by a fresh and re-hearing of the matter to facilitate a change of opinion on merits. The reliance in this regard can be placed on the judgments of the Hon'ble Supreme Court in cases of ***Parsion Devi and Others vs. Sumitri Devi and Others*** (1997) 8 SCC 715, ***Ajit Kumar Rath Vs. State of Orissa***, (1999) 9 SCC 596, ***Union of India Vs. Tarit Ranjan Das*** (2003) 11 SCC 658 and ***Gopal Singh***

Vs. State Cadre Forest Officers' Association & Others (2007) 9 SCC 369.

5. An identical question came up to be decided by Hon'ble Apex Court in case ***State of West Bengal and Others Vs. Kamal Sengupta and Another*** (2008) 8 SCC 612. Having interpreted the scope of review and considering the catena of previous judgments mentioned therein, the following principles were culled out to review the orders:-

(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".

6. Meaning thereby, the original order can only be reviewed if case strictly falls within the domain of Order 47 Rule 1 CPC read with Section 22(3)(f) of the Administrative Tribunals Act, 1985 and not otherwise. In the instant RA, the review applicant has not pointed out any error apparent on the face of record warranting a review of the order dated 27.07.2018. Moreover, the issues now sought to be urged, were subject matter of the OA and have already been adjudicated upon by the Tribunal.

7. In the light of the aforesaid reasons, as there is no apparent error on the face of record, hence no ground is made out to entertain the present Review Application, which is accordingly dismissed in circulation. No costs.

(S.N. TERDAL)
MEMBER (J)

(NITA CHOWDHURY)
MEMBER (A)

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