

**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH**

**R.A. No.198/2018 in
CP No.263/2017 In
O.A. No.722/2017**

New Delhi this the 15th day of October, 2018

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

1. Kamal Kumar,
S/o Sh. Satish Kumar,
R/o D-20, Nawada Village,
Uttam Nagar, New Delhi-110059
2. Tajinder Kaur,
D/o Sh. Balvinder Singh,
R/o N-143, Narayan Nagar,
Laxmi Nagar, Delhi-92

Versus

1. Shri Bhanu Pratap Sharma,
Secretary,
Union of India,
Department of Personnel and Training,
Ministry of Personnel, Public Grievances & Pension,
North Block, New Delhi

2. Shri Ashim Khurana,
Chairman (HQ)
Staff Selection Commission,
Block No.12, CGO Complex,
Lodhi Road, New Delhi-110091

ORDER BY CIRCULATION

MS. NITA CHOWDHURY:

The facts, in brief, are that while deciding the Contempt Petition (CP) bearing No.263/2017, this Tribunal considered all the issues raised by the Review Applicants and disposed of the same on merits on 07.09.2018 wherein the following orders were passed:-

“When the matter is taken up for hearing, counsel for the respondents draws our attention to the reply filed by respondent no.2 to the Contempt Petition. As per

this reply, it becomes clear that the interim order in this matter is dated 20.03.2017 in which the Tribunal had directed the respondents not to make any appointments in pursuance of the examination to the post of Stenographer Grade 'D', but the fact of the matter is that the final result of the examination under challenge in the present OA was declared on 30.11.2016 and finally selected candidates were nominated to different user departments by this respondent in December, 2016 itself. The user departments have acted on the dossiers sent to them. In this view of the matter, it is clear that the order of the Tribunal dated 20.03.2017 was passed after the completion of the entire recruitment process. Hence, no contempt is made out. Accordingly, the CP stands closed. Notices issued to the respondents stand discharged. No costs."

2. Now the Review Applicants have filed the present RA bearing No.198/2018 for reviewing the indicated order, mainly on the grounds which have already been considered by this Tribunal while closing the CP.

3. 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 ***Parson 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.

4. 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”.

5. 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 07.09.2018.

6. 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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