

CENTRAL ADMINISTRATIVE TRIBUNAL,
ERNAKULAM BENCH

Review Application No. 180/00015/2018 in
Original Application No. 180/00377/2017

Friday, this the 16th day of March, 2018

CORAM:

Hon'ble Mr. U. Sarathchandran, Judicial Member
Hon'ble Mr. E.K. Bharat Bhushan, Administrative Member

1. Union of India, represented by Secretary to Government of India, Ministry of Communications, New Delhi.
2. The Director (Staff), Department of Posts, Ministry of Communications & IT, New Delhi 110001.
3. The Chief Postmaster General, Kerala Circle, Thiruvananthapuram, Kerala.
4. The Senior Superintendent of Post Offices, Aluva Division, Aluva, Kerala – 683 101. **Review Applicants**

(By Advocate : Mr. K. Kesavankutty, ACGSC)

V e r s u s

1. Valsa O J, wife of Josey V.D., aged 54 years, Sub Post Master, Palliport Post Office, Aluva Division, residing at Venganath (Ashirwad), Gothuruth, Ernakulam 683 516
2. C.M.Kanakam, wife of T. N. Narendran, aged 54 years, Sub Post Master, Alangad Post Office, Aluva Division, residing at Tharel House, Fish Farm Road, Elamkunnappuzha, Ernakulam 682 503
3. Rosily George, wife of Kuruvilla Manjooran, aged 56 years, Sub Post Master, Vadakkekara Post Office, Aluva Division, residing at Manjooran House, Mannam P.O., Ernakulam 683 520
4. Tessy Antony, wife of Davis Chirayath, aged 57 years, Sub Post Master, Kaitharam Post Office, Aluva Division, residing at Chirayath House, Olanad, Varapuzha, Ernakulam 683 517
5. Josy Peter, wife of Mary Jose Peter V.L., aged 57 years, Sub Post Master, Chendamangalam Post Office, Aluva Division, residing at Veliparambil House, Cheranellore P.O., Ernakulam 682034.

6. S.R.Jayasree, wife of M. Raman, aged 55 years, Postal Assistant, Paravur MDG, Aluva Division, residing at Nandikulangara, Mannam, Paravur, Ernakulam 683 520
7. N A Ushakumari, wife of K. M.Satheesan Nair, aged 53 years, Sub Post Master, Puthenvelikara Post Office, Aluva Division, residing at Krishna, Neericode, Alangad, Ernakulam 683 511
8. Beena Paul, wife of V T Varghese, aged 53 years, Sub Post Master, Thrikkariyoor Post Office, Aluva Division, residing at Valliplavil House, Nellikkuzhy P.O., Kothamangalam 686 691
9. Prasanna P, wife of B Ramachandran, aged 54 years, Sub Post Master, Muppathadam, Aluva Division, residing at Poonkudiyil House, West Kadungalloor, Muppathadam, Ernakulam 683 110
10. T J Clara, wife of T O Mathachan, aged 58 years, Sub Post Master, Malayattoor Post Office, Aluva Division, residing at Thaickadan House, Kaippattoor, Kalady P.O., Ernakulam 683 574
11. Molly M J, wife of P H Joy, aged 55 years, Sub Post Master, Kizhakkambalam Post Office, Aluva Division, residing at Puthenveetil House, V.K.C., P.O.Thevakkal, Ernakulam 682 020
12. Sherly George, wife of K P Peter, aged 53 years, Sub Post Master, Kolenchery Post Office, Aluva Division, residing at Kakkattuparayil House, Kanjaramattom P.O., Kolenchery 682 311
13. Sabira M A, wife of V M Saleem, aged 57 years, Postal Assistant, Aluva Head Post Office, Aluva Division, residing at Al-Noor, Vayalakkad, U C College P.O., Aluva 683 102
14. Leela P T, wife of A K Velayudhan, aged 57 years, Sub Post Master, N.A.D Post Office, Aluva Division, residing at Ainaliparambil, North Exhipuram, Marampilly P.O., Ernakulam 683 105
15. Usha P, wife of V G Unnikrishnan, aged 52 years, Sub Post Master, Kurumassery PO., Aluva Division, residing at Ambily House, Moozhikkulam, Kurumassery P.O., Ernakulam 683 579
16. M Presanna Kumari, wife of V Rajendran, aged 57 years, Office Assistant, office of the Senior Superintendent of Posts, Aluva Division, residing at Mangalam pandil House, Thurallumkara, Kanjoor P.O., Ernakulam 683 575
17. Hawa Beevi T P, wife of P.S.M. Sadic, aged 53 years, Sub Post Master, Chelad Junction Post Office, Aluva Division, residing at Puthusseriyil House, Kothamangalam 686 691
18. N.S.Vanajakumary, wife of V.D.Radhakrishnan, aged 55 years, Postal Assistant, Aluva Head Office, Aluva Division, residing at Valappil House, Vellarappilly South P.O., Sreemoolanagaram, Aluva 683 580
19. Sobhanakumari E.R., wife of K. N.Mohana Kumar, aged 58 years, Sub Post Master (Retired), Malayattoor Post Office, Aluva Division, residing at Sreelakshmi, Manikamangalam, Kalady, Ernakulam 683 574

20. Sarala V B, wife of Saseendran Pillai, aged 58 years, Postal Assistant, Aluva Head Post Office, Aluva Division, residing at Sreeragam House, Vadakkepurath, Chengamanad P.O., Aluva 683 578
21. Sobha N K, wife of M Vijayakumar, aged 57 years, Postal Assistant, SBCO, Aluva Head Office, Aluva Division, residing at Thoppil House, 37/1383 A13, Panorama Residency, Kumaranasan Road, Kaloore P.O., Cochin 682 017. **Respondents**

O R D E R (By circulation)

Per Hon'ble Mr. U. Sarathchandran, Judicial Member –

This Review Application has been filed by the respondents in the OA No. 180/377/2017. The said OA was disposed of by a common order dated 10.01.2018. The issue involved in that OA was whether to treat the Reserved Trained Pool (for short, RTP) recruitees who were later on absorbed in the service of the Postal Department, as appointed on the basis of the year of recruitment and to be accommodated notionally against the vacancies that arose from 1984 onwards or not? Based on Annexure A4 order of this Tribunal (order dated 1.10.2013 in OA No. 79 of 2011 and connected cases) this Tribunal allowed the OA No. 180/377/2017 on the same lines as ordered in Annexure A4 order of this Tribunal.

2. The review applicants contend that in addition to what has been ordered in Annexure A4 this Tribunal has granted the pensionary benefits also and that for that purpose it was directed to reckon the period spent as RTP for pensionary benefits also. According to the review applicants (respondents in the OA) the above relief granted was not asked for by the respondents in the RA (applicants in the OA) and hence it would throw open a flood gate of litigation. Hence, the review applicants pray for reviewing Annexure RA-1 order.

3. The apex court in *State of West Bengal & Ors. v. Kamal Sengupta & Anr.* - 2008 (2) SCC 735 has enumerated the principles to be followed by the Administrative Tribunals when it exercises the power of review of its own order under Section 22(3)(f) of the Administrative Tribunals Act, 1985. They 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 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 a 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.”

4. Counting of RTP service as part of regular service from the date of occurrence of the vacancies in which the RTP candidates are to be adjusted was a conscious decision on the part of the Tribunal. This Tribunal had considered such period to be counted for pensionary benefits also as it is

consequential to the main relief, on account of the fact that the review applicants have extracted work from such RTP candidates before their regularisation and hence the said period should be counted for pensionary benefits also. It is settled position that pension is a deferred payment for the services rendered by the Government employee.

5. We are unable to see any error on the face of the record so as to warrant a review of Annexure RA-1 order. Accordingly the RA is dismissed

(E.K. BHARAT BHUSHAN)
ADMINISTRATIVE MEMBER

(U. SARATHCHANDRAN)
JUDICIAL MEMBER

“SA”

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REVIEW APPLICANTS' ANNEXURES

Annexure RA-1 – True copy of the order dated 10.1.2018 in OA No. 377/2017 of the Central Administrative Tribunal, Ernakulam Bench.

RESPONDENTS' ANNEXURES

Nil

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