

CENTRAL ADMINISTRATIVE TRIBUNAL,
ERNAKULAM BENCH

Review Application No. 180/00014/2018 in
Original Application No. 180/00460/2015

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, Kottayam Division, Kottayam, Kerala. **Review Applicants**

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

V e r s u s

1. Beena Madhavan, wife of K.N.Sivadas, aged 51 years, Accountant, Kottayam Head Post Office, Kottayam, residing at Kalappurackal House, Kanakkari P.O., Kottayam 686632.
2. Mary A.C, wife of Joseph V.O., aged 52 years, Sub Postmaster, Arunapuram, Kottayam Division, residing at Arackathazathu House, Kidangoor P.O., Kottayam 686 572.
3. Babu Thomas, son of T.T.Thomas, aged 53 years, Sub Postmaster, Melukamattom, Kottayam Division, residing at Areeplackal, Peringulam, Kottayam 686 582.
4. K. Lethamol, wife of P.N.AshokBabu, aged 51 years, Postal Assistant, Ettamanoor, Kottayam, residing at Poothrayil House, Kurumulloor P.O., Kanakary 686632.
5. Elsamma George, wife of Mathew Joseph, aged 50 years, Sub Postmaster, Mannanam, Kottayam Division, residing at Vengachuvattil House, Athirampuzha P.O., Kottayam 686 562.

6. Anil A G, son of M.K.Gopalakrishnan Nair, aged 50 years, Sub Postmaster, Vadavathoor, Kottayam Division, residing at Sreemandiram, Koeroppade P.O., Kottayam 686 502.
7. Premkumar P.C., son of P.S.Chandrasekharan Nair, aged 50 years, Office Assistant, Office of Senior Superintendent of Post Offices, Kottayam Division, residing at Pongona House, Arpookara East P.O., Kottayam 686 008.
8. Philomina Joseph, Daughter of C.M.Joseph, aged 54 years, Sub Postmaster, Peroor P.O., Kottayam Division, residing at SanthiBhavan, Peroor P.O., Kottayam 686 637.
9. K.N.Usha, wife of T.N.Radhakrishnan, aged 56 years, Sub Postmaster, Manjoor, Kottayam Division, residing at Madackal, Kuravilangad, Kottayam 686 633.
10. Geethamma E.K., wife of P.G.Shajahan, aged 50 years, Sub Postmaster, Ettumanur Junction, Kottayam Division, residing at Poovamnilkunnathil House, Vayala P.O., Kottayam 686 587.
11. Thressiamma Thomas, wife of P.J.Lukose, aged 52 years, Sub Postmaster, Kudavechoor P.O., Kottayam Division, residing at Padavathil House, Kallara South, Kottayam 686 611.
12. G.Mayadevi, wife of L.Radhakrishnan Nair, aged 49 years, Sub Postmaster, Kumaranalloor, Kottayam Division, residing at Devika, Manjoor, Kottayam 686 603.
13. Jessy Daniel, wife of Jose P Neerakal, aged 53 years, Sub Postmaster, Kallara, Kottayam Division, residing at Neerakal, Muttuchira, Kottayam 686 611.
14. Remani K.K., wife of Pavithran, aged 50 years, Postmaster, Thalayolaparambu MDG, Kottayam Division, residing at NilaNivas, Thalayolaparambu, Kottayam 686 605.
15. V.K.Muraleedharan, son of Kunjan, aged 52 years, Sub Postmaster, Poonjar, Kottayam Division, residing at Valliyathadath, Poovathodu P.O., Kottayam 686 578.
16. Mercy Thomas, wife of P.J.Joy, aged 55 years, Sub Postmaster, Thalakod, Kottayam Division, residing at Paravelil, Ettumannur, Kottayam 686 561.
17. Annamma Mathen, Daughter of Mathen, aged 53 years, Sub Postmaster, Pariyaram, Kottayam Division residing at Vazhiyil House, Puthuppally, Kottayam 686 011.

18. Mercy Joseph, wife of Thomas Mathew, aged 54 years, Sub Postmaster, Ozhuvur, Kottayam Division, residing at Thayyil House, Kothanalloor P.O., Kottayam 686 633.
19. M.R.Satheesh Kumar, son of S.Raveendran Nair, aged 49 years, Sub Postmaster, Meendadom, Kottayam Division, residing at Sreedeeepam House, Maalam P.O., Kottayam 686 019.
20. K.N.Sivadas, son of Naraynan K.K., aged 52 years, PRL(P), Kottayam Head Office, Kottayam Division, residing at Kalappurackal House, Kanakkari P.O., Kottayam 686632.
21. Rajeswary P.S., wife of Muraleedharan R, aged 52 years, Sub Postmaster, Newsprint Nagar, Kottayam Division, residing at Sasthasadanam, Thalayaloparambu, Kottayam 686 605.
22. Molly Joseph, wife of Thomas P V., aged 54 years, Sub Postmaster, Padinjarekkara, Kottayam Division residing at Puthenchira, East Gate, Vaikom, Kottayam 686 141. **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. 180/460/2015. The aforesaid OA was disposed of by Annexure RA-1 common order dated 10.01.2018. The issue involved in that OA was to treat the service of Reserved Trained Pool recruits who were later on absorbed in the service of the Postal Department, as appointed on the basis of the year of their recruitment and to accommodate them notionally against the vacancies arose from 1984 onwards. 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. 180/460/2015 on the same lines as 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 for that purpose it was directed to reckon the period of service as RTP to such recruits for pensionary benefits also. According to the review applicants (respondents in the OA) this relief was not asked for by the respondents in the RA (applicants in the OA) and 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 orders 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 the consequential benefits of pension benefits also, on account of the fact that the review applicants have extracted work from such RTP candidates before their regularisation and hence it was held that 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 apparent 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 in OA 460/15.

RESPONDENTS' ANNEXURES

Nil

-X-X-X-X-X-X-X-X-