

**CENTRAL ADMINISTRATIVE TRIBUNAL,**  
**ERNAKULAM BENCH**

**Review Application No. 180/00013/2018 in**  
**Original Application No. 180/00732/2017**

**Friday, this the 16<sup>th</sup> 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, rep. by Chief Personnel Officer, Southern Railway, Park Town, Chennai – 3.	..... <b>Review Applicants</b>
2. The Senior Divisional Personnel Officer, Southern Railway, Palghat Division, Palghat.	.....
3. The Sr. Divisional Personnel Officer, Southern Railway, Trivandrum Division, Trivandrum-1.	.....

**(By Advocate : Mr. Thomas Mathew Nellimootttil)**

**V e r s u s**

1. P.K. Vijayakumar, Group 'D', Southern Railway, Trivandrum Division, Trivandrum.	
2. T.V. Gopinathan, ACCA, Office of the Section Engineer (Electrical), Mangalore.	.....
3. Suresh Babu C.C., A/C Mechanic Grade-III, Office of the Section Engineer (Electrical), Mangalore.	.....
4. K.K. Kunhiraman, A/C Mechanic Grade-III, Office of the Section Engineer (Electrical), Mangalore.	.....
5. Omanakuttan Pillai, ACCA, S. Rly., Kochuveli, Trivandrum Division, Trivandrum-1.	..... <b>Respondents</b>

**O R D E R (By circulation)**

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

Applicants in this review application are the respondents in OA No.

180/732/2017 which was disposed of by this Tribunal vide Annexure RA-2 common order dated 22.12.2017. Applicants in the OA were Commission Bearers/Vendors. They had approached this Tribunal seeking to reckon their service as Commission Bearers/Vendors before they were regularised in terms of the apex court judgment in *T.I. Madhavan, Gen. Secy., All India Railway Catering Services Workers' Union v. Union of India & Ors.* - 1988 (Supp) SCC 437. In Annexure RA-2 order this Tribunal relying on an earlier order in OA No. 417 of 2013 and connected cases granted the similar benefits of the order in that OA to the applicants (respondents in the review application).

2. The review applicants state that in Annexure RA-2 order besides directing to reckon the period of engagement as Commission Bearers for pay fixation, this Tribunal had directed to reckon such period for the benefits under the MACPs and pensionary benefits also – which according to the review applicants were not a part of the order in OA No. 417 of 2013 and connected cases relied on by this Tribunal for the purpose of Annexure RA-2 order.

3. We have carefully gone through the record. True, in Annexure RA-2 order there is a direction to reckon 50% of the service rendered by the respondents (applicants in the OA) for the purpose of pensionary benefits and also to re-fix the pay and other service benefits including MACP etc. thereof on the basis of reckoning of the aforesaid period. This Tribunal took such a conscious decision in RA-2 order because MACP and pension are

continuing and consequential benefits enuring to the review respondents. Counting 50% of the service as Commission Bearers/Vendors would add on and enhance the required minimum period of residency for the purpose of financial upgradation like MACP and also for reckoning the qualifying service for pension.

4. 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.”

5. In the light of the above decision and in view of the facts and circumstances of this case, we do not find any error apparent on the face of the record which would warrant review of this Annexure RA-2 order. Accordingly 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 common order dated 4.6.2014 of this Hon'ble Tribunal in OA 417/2013 and connected cases.

**Annexure RA-2** –True copy of the common order dated 22.12.2017 of this Hon'ble Tribunal in OA 732/2017 and connected cases.

**RESPONDENTS' ANNEXURES**

Nil

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