

**CENTRAL ADMINISTRATIVE TRIBUNAL  
ERNAKULAM BENCH**

**Review Application No. 180/00035/2018**  
**&**  
**Miscellaneous Application No. 180/00685/2018**  
**in**  
**Original Application No.180/00165/2018**

Wednesday, this the 20<sup>th</sup> day of June, 2018

**CORAM:**

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

1. N.Arun Babu, S/o. R. Nanu,  
Arun Nivas, Manchalloor, Pathanapuram P.O, Kollam.
2. N.Ajithkumar, S/o. Nanu,  
Arun Nivas, Manchalloor, Pathanapuram P.O, Kollam.
3. N.Archanadevi, D/o. R.Nanu,  
Arun Nivas, Manchalloor, Pathanapuram P.O, Kollam.
4. Priyamol T.V., D/o.Vasudevan, Charuvilamelethil,  
Pulamon P.O, Kottarakkara
5. Pradeepkumar.T.V, S/o.C.Vasudevan, Charuvilamelethil,  
Pulamon P.O, Kottarakkara
6. Sureshkumar A.,  
S/o. K. Appu, Charuvila Veedu, Kuttichira,  
Kallumthazham P.O, Kollam.
7. Sindhu, D/o.M.Vijayan, Charuvila Veedu,  
Kuttichira, Kallumthazham P.O, Kollam.
8. Kiran.K. Krishnan, S/o.K.Krishnan Kutty  
Thankamma Bhavan, Hari Srinagar 104, AKG Junction,  
East Kuravanpalam, Kollam.
9. Kishore.K. Krishnankutty, S/o. K.Krishnankutty  
Thankamma Bhavan, Hari Srinagar 104, AKG Junction,  
East Kuravanpalam, Kollam.
10. Sunitha C.S, D/o.T.K.Sadanandan,  
Railway, Qrs.No.5, Ambalapuzha, P.O, Alleppy.
11. Remya Babu, D/o.N.Babu, Nandanam  
Near Pandarakulam, Karicode, TKMC Post, Kollam – 5.

12. Sasikumar, S/o. M.Vijanan, Ajayabhavan  
Vayalil Purayidom, Jawahar Nager, Pattathanam, Kollam.
13. Nikhil.N.K., S/o.Y.Kunjumon, Pazhayathoppil Veedu,  
Umbernadu, Mavelikkara, Alappuzha.
14. Sonulal, S/o.K.Thankappan, Sonumandiram,  
Poovattoor East, Poovattoor P.O  
Kulakkada P.O, Kottarakkara.
15. Jyothishkumar, S/o.K.Sasi, Deepavilasam,  
Thonikadavu, Karyara P.O, Punalur.
16. Rajani.S, D/o.N.Babu, Nandanam,  
Near Pandarakulam, Karicodu, TKMC P.O, Kollam.
17. Ranjini.S., D/o.N.Babu, Nandanam,  
Near Pandarakulam, Karicode, TKMC P.O, Kollam.
18. S.Deepakumari, D/o.K.Sasi, Deepavilasam,  
Thonikadavu, Karyara P.O, Punalur.
19. Savitha Viswan, D/o.Viswan, Paduvayal Kuluthungal,  
Chengannoor P.O, Mallappally.
20. Binalekshmi, D/o.Balachandran, Deepavilasam,  
Thonikadavu, Karyara P.O, Punalur.
21. Bineesh.V., S/o.Viswambaran,  
Bhavitha Nivas, Venga, Sasthamkotta.
22. Arun K.Krishnan, S/o.K.Krishnankutty,  
Thankamma Bhavan,  
Harisri Nagar, 104, AKG Junction,  
East Kuravan Palam, Kollam. .... **Review Applicants**

**(By Advocate – Mr. C. Rajendran)**

**V e r s u s**

1. Government of India represented by Secretary,  
Ministry of Railways, Rail Bhavan, New Delhi.
2. The Divisional Manager, Southern Railway,  
Divisional Head Quarters, Thiruvananthapuram Division,  
Thiruvananthapuram- 695 014. .... **Respondents**

This Review Application having been considered by circulation, the Tribunal on 20.06.2018 delivered the following:

**ORDER (by circulation)**

***Per: E.K. Bharat Bhushan, Administrative Member***

1. By Review Application No. 180/35/2018, the original applicants in OA 165/2018 seek to set aside the order passed by this Tribunal dismissing the OA, concluding that the prayer contained thereon is more in the nature of a public interest litigation and the applicants had no cause of action by way of dispute over a service matter pertaining to them as contained in impugned Annexure A6 order. In the RA, the applicants describe at length their efforts to bolster the claim of SC/ST community in getting appointments under the respondents. What was sought was a general direction directing the respondents to give appointment to candidates belonging to SC/ST community for Class-IV posts for which no technical knowledge is required.

2. MA No. 685/2018 was filed admitting that there has been a delay of 75 days in filing the RA. As a matter of fact, the order challenged was pronounced on 21.02.2018 and the Review Application was filed only on 06.06.2018. Sufficient reason has not been cited for the delay. Hence, the RA is liable to be dismissed on account of delay alone.

3. The scope for a review application is clearly defined in various orders of the Hon'ble Supreme Court. The Hon'ble Supreme Court in the case of *State of West Bengal & others v. Kamal Sengupta and another (2008) 3 AISLJ 209* has held that the Tribunal can exercise the powers of a Civil Court in relation to matters enumerated in clauses (a) to (i) of sub-

section (3) of Section 22 of the Administrative Tribunals Act including the power of reviewing its decision. By referring to the power of a Civil Court to review its judgment/decision under Section 114 CPC read with Order 47 Rule 1 CPC, the Hon'ble Supreme Court laid down the principles subject to which the Tribunal can exercise the power of review. At para 28 of the said judgment the Hon'ble Supreme Court culled out the principles which 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 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. Further, the Hon'ble Supreme Court in the case of ***Ajit Kumar Rath v. State of Orissa, (1999) 9 SCC 596*** has categorically held that a matter cannot be heard on merit in exercise of power of review and if the order or decision is wrong, the same cannot be corrected under the guise of

power of review. The scope for review petition and the circumstances under which such power can be exercised was considered by the Hon'ble Apex Court in *Ajit Kumar Rath's* case (*supra*) and held as under:

*"The power of the Tribunal to review its judgment is the same as has been given to court under Section 114 or under Order 47 Rule 1 CPC. The power is not absolute and is hedged in by the restrictions indicated in Order 47 Rule 1 CPC. The power can be exercised on the application of a person on the discovery of new and important matter or evidence which, after the exercise of due diligence, was not within his knowledge or could not be produced by him at the time when the order was made. The power can also be exercised on account of some mistake of fact or error apparent on the face of the record or for any other sufficient reason. A review cannot be claimed or asked for merely for a fresh hearing or arguments or correction of an erroneous view taken earlier, that is to say, the power of review can be exercised only for correction of a patent error of law or fact which stares in the face without any elaborate argument being needed for establishing it. It may be pointed out that the expression 'any other sufficient reason' used in Order 47 Rule 1 CPC means a reason sufficiently analogous to those specified in the rule."*

5. We may also add that the Hon'ble Supreme Court in the case of ***Meera Bhanja (Smt) v. Nirmala Kumari Choudhury (Smt) (1995) 1 SCC 170*** held as under :

*"The review proceedings are not by way of an appeal and have to be strictly confined to the scope and ambit of Order 47, Rule 1, CPC. The review petition has to be entertained only on the ground of error apparent on the face of record and not on any other ground. An error apparent on the face of record must be such an error which must strike one on mere looking at the record and would not require any long-drawn process of reasoning on points where there may conceivably be two opinions. The limitation of powers of court under Order 47 Rule 1, CPC is similar to the jurisdiction available to the High Court while seeking review of the orders under Article 226."*

6. The matter involved in the OA No. 165/2018 was not an issue relating to any particular service condition or terms thereof. It was more in the nature of a Public Interest Litigation. Thus, we do not find any error of fact or law in the order passed by this Tribunal. The Review Applicants have failed to point out any error much less an error apparent on the face of the record justifying the exercise of power under sub clause (f) of sub-section(3)

of Section 22 of the Administrative Tribunals Act, 1985. The Review Application deserves to be dismissed and accordingly the same is dismissed. MA No. 685/2018 for condonation of delay also stands dismissed as no cogent and acceptable reasons have been advanced for the inordinate delay. No costs.

**(E.K.BHARAT BHUSHAN)**  
**ADMINISTRATIVE MEMBER**

**(U.SARATHCHANDRAN)**  
**JUDICIAL MEMBER**

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**List of Annexures of the Review Applicants**

**Annexure RA-1** - True photocopy of the order in O.A. No. 165/2018 dated 21.02.2018.

**Annexure RA-2** - True photocopy of the judgment in WP(C) No. 36168/2017.

**List of Annexures of the Respondents**

Nil.

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