

**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH**

RA 121/2017 in
OA 4518/2013
MA 1752/2017

New Delhi, this the 3rd day of May, 2018

Hon'ble Mrs. Jasmine Ahmed, Member (J)

Union of India through
Secretary (R),
Room No. 1001, B-2 Wing,
10 Floor, Pandit Deen Dayal Antoydaya Bhawan,
CGO Complex, Lodhi Road,
New Delhi-110003

...Review Applicant

(Through Shri Satish Kumar, Advocate)

Versus

1. Shri Sushanta Bhattacharya,
220 Maitri Apartments,
28, I.P. Extension,
New Delhi-110092
 2. Secretary,
Ministry of External Affairs,
South Block,
New Delhi-110001
- ...Contesting Respondent
- ... Proforma Respondent

(Through Shri A.K. Ojha with Ms. Richa Ojha, Advocates)

ORDER

Mrs. Jasmine Ahmed, Member (J)

This Review Application (RA) has been filed by the respondents under Section 22 (3) (f) of the Administrative Tribunals Act, 1985 read with Rule 17 of the Central Administrative Tribunal (Procedure) Rules,

1987 to review the judgment passed in OA No.4518/2013, which was allowed as follows:

“18. Considering that the facts of the present OA are identical to Vinod Kumar Jain (supra), the OA is allowed. The respondents are directed to make payment of arrears of local servant allowance to the applicant for the period he was posted in the foreign mission under cover in accordance with the amended Rule 134 (2) read with Rule 134 (1) within a period of two months. The applicant shall also be paid interest on delayed payment at the rate applicable to the GPF deposits subject to the outcome of WPC No.10260/2015.”

2. It is seen that based on the judgment of this Tribunal, the review applicant has already paid the principal amount to the contesting respondent. If there was any doubt regarding the date from which interest was to be paid, the review applicant, at the most, could have filed an MA seeking clarification from the Tribunal in that regard. Filing a Review for this purpose is, of course, not a proper course of action.

3. In the garb of RA, the review applicants have tried to reargue the matter which is impermissible in law. The law has been settled by the Hon’ble Apex Court regarding scope of review application before the Tribunal, specifically in **Kamlesh Verma Vs. Mayawati and Others**, (2013) 8 SCC 320, wherein the Hon’ble Supreme Court has laid down the following contours with regard to maintainability, or otherwise, of review petition:

“20. Thus, in view of the above, the following grounds of review are maintainable as stipulated by the statute:

20.1 When the review will be maintainable:

- i) Discovery of new and important matter or evidence which, after the exercise of due diligence, was not within knowledge of the petitioner or could not be produced by him;
- ii) Mistake or error apparent on the face of the record;
- iii) Any other sufficient reason.

The words “any other sufficient reason” have been interpreted in *Chhajju Ram v. Neki* (AIR 1922 PC 122) and approved by this Court in *Moran Mar Basselios Catholicos v. Most Rev. Mar Poulouse Athanasius* (AIR 1954 SC 526) to mean “a reason sufficient on grounds at least analogous to those specified in the rule”. The same principles have been reiterated in *Union of India vs. Sandur Manganese & Iron Ores Ltd.* (2013 (8) SCC 337).

20.2 When the review will not be maintainable:

- i) A repetition of old and overruled argument is not enough to reopen concluded adjudications.
- ii) Minor mistakes of inconsequential import.
- iii) Review proceedings cannot be equated with the original hearing of the case.
- iv) Review is not maintainable unless the material error, manifest on the face of the order, undermines its soundness or results in miscarriage of justice.
- v) A review is by no means an appeal in disguise whereby an erroneous decision is reheard and corrected but lies only for patent error.
- vi) The mere possibility of two views on the subject cannot be a ground for review.

- vii) The error apparent on the face of the record should not be an error which has to be fished out and searched.
- viii) The appreciation of evidence on record is fully within the domain of the appellate court, it cannot be permitted to be advanced in the review petition.
- ix) Review is not maintainable when the same relief sought at the time of arguing the main matter had been negated.”

Further, in **State of West Bengal and others Vs. Kamal Sengupta and another**, (2008) 8 SCC 612, the Hon’ble Supreme court scanned various earlier judgments and summarized the principles laid down therein which read thus:

“35. The principles which can be culled out from the above-noted judgments 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 CPC.
- (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. In view of above, the RA is found to be devoid of merit and is, therefore, dismissed. No costs.

(Jasmine Ahmed)
Member (J)