

**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH**

RA 57/2018 in
OA 3872/2017
MA 1339/2018
MA 1340/2018
MA 1341/2018

New Delhi, this the 4th day of May, 2018

**Hon'ble Mrs. Jasmine Ahmed, Member (J)
Hon'ble Mr. Uday Kumar Varma, Member (A)**

1. Union of India through
The Secretary
Department of Personnel & Training,
Ministry of Personnel, Public Grievances and Pensions
North Block, New Delhi
2. Staff Selection Commission
Through its Chairman (Headquarter)
Block No.12, CGO Complex,
Lodhi Road, New Delhi-110504 ... Applicants
(Respondents in OA)

Versus

Rajat Kumar Agarjee
Aged about 22 years
S/o Shri Muneem Kr. Sharma
R/o H.No.158, Murli Vihar Colony,
Shahganj, Agra (UP) 282010
(Group 'C') (Candidate toward CGLE-2016) ... Respondent
(Applicant in OA)

ORDER (In Circulation)

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.3872/2017, which was disposed of as follows:

“3. Accordingly, the respondents are directed to examine the case of the applicant in the light of the judgments referred above and if the facts and issues are found to be similar, the similar benefits be extended to the applicant within a period of three months from the date of receipt of a certified copy of this order.”

2. The respondents have sought review of the aforesaid judgment on several grounds. It is, however, seen from the para quoted above that the only direction given by the Tribunal to the respondents in the OA was to examine the case of the applicant in the light of the judgment referred therein, as upheld by the Hon’ble High Court and the Hon’ble Apex Court, and if the facts and issues are found to be similar, same benefits be extended to the applicant. It is thus clear that the respondents could also reject the claim of the applicant if they come to the conclusion that the applicant’s case was not similar to that of Ms. Kritika Raj, and could have informed him the same. It does not give any cause for filing review. In the review petition it is stated that wrong name of counsel for respondent has been typed. It also may happen that Mr. Saurav Arora appeared in place of Mr. R.N. Singh as proxy counsel and on that premises his name has been typed which also can not be a cause for filing a review petition. No error apparent on the face of the order is found.

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 Poulose 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 negatived.”

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 not maintainable and is, therefore, dismissed in circulation. MAs filed also stand disposed of. No costs.

(Uday Kumar Varma)
Member(A)

(Jasmine Ahmed)
Member (J)