

**Central Administrative Tribunal  
Principal Bench**

RA No.68/2018  
in  
MA No.1777/2018  
OA No.3117/2016

New Delhi this the 2<sup>nd</sup> day of May, 2018.

**Hon'ble Mr. K.N. Shrivastava, Member (A)**

Union of India through:

1. Secretary  
Ministry of Finance  
Department of Revenue  
North Block, New Delhi
2. Chairman  
Central Board of Direct Taxes  
Department of Revenue  
Ministry of Finance  
North Block, New Delhi
3. Pr. Chief Commissioner of Income Tax (CCA)  
Aaykar Bhawan, Civil Lines  
Kanpur
4. Chief Commissioner of Income Tax  
Hapur Chungi  
CGO Complex I  
Ghaziabad.

-Review Applicants

-Versus-

1. Sh. Indrajeet Singh  
Aged about 44 years  
s/o Sh. Raj Pati Singh  
r/o 621, Kamla Nehru Nagar  
Ghaziabad  
(working as casual labour)
2. Sh. Manoj Kumar  
Aged about 36 years  
s/o Sh. Ashok Kumar  
r/o 14/180, Dadri  
Niadarganj, Gautam Budh Nagar  
(working as casual labour)

3. Sh. Deepak Kumar Gautam  
Aged about 36 years  
s/o late C P Gautam  
r/o H.No.218, Shatabdi Puram  
Near Govind Puram, Ghaziabad  
(working as casual labour)

..Respondents

### **O R D E R (By Circulation)**

Through the medium of this Review Application (RA), review of the Tribunal's order dated 27.11.2017 in OA No.3117/2016 has been sought by the review applicants, who were respondents in the OA.

2. The Tribunal disposed of the OA in terms of its order in **Ajit Kumar Ojha & Others v. Union of India & Others** (OA No.10/2007, decided on 24.11.2008). The Tribunal did not pass any separate order in the said OA.

3. In support of their prayer for review, the review applicants have mentioned the following grounds:

i) The Hon'ble Apex Court in **State of Karnataka v. Uma Devi & Others**, [(2006) 4 SCC 1], has denied regularisation of service to daily wages/part time workers and hence the order under review needs to be recalled.

ii) The judgment of the Tribunal in **Ajit Kumar Ojha** (supra) is not applicable to the present case on the ground of facts being different.

iii) In **Ajit Kumar Ojha** (supra), the petitioners therein had been terminated from service but in the present case the petitioners are still working as casual labourers.

iv) The Tribunal has wrongly come to the conclusion that the applicants in the OA were entitled to the identical relief, as has been granted to the petitioners in **Ajit Kumar Ojha** (supra).

v) In the case of **State of Bihar & Another v. K.P. Singh**, [(2000) SCC (L&S) 845], the Hon'ble Apex Court has held that "*equality is a positive concept and cannot be enforced in a negative manner*". Hence, the judgment dated 27.11.2017 in OA No.3117/2016 needs to be recalled.

4. From the contents of the RA and specifically the grounds pleaded for seeking review of the Tribunal's order it would appear that the review applicants, who were respondents in the OA, have tried to re-argue the case, which is impermissible in law. If they are aggrieved of the order dated 27.11.2017 in OA No.3117/3016, nothing prevents them from challenging it at a higher judicial forum.

5. It is settled law that *sine qua non* for review of an order is existence of an error apparent on the face of the record of the order. In the instant case the review applicants have failed to point out any apparent error on the face of the Tribunal's order.

4. On the power of the Tribunal to review its own orders, the Hon'ble Supreme Court has laid down clear guidelines in its judgment in the case of **State of West Bengal & others Vs. Kamal Sengupta and another**, [2008 (3) AISLJ 209] stating therein that “*the Tribunal can exercise powers of a Civil Court in relation to matter enumerated in clauses (a) to (i) of sub-section (3) of Section (22) of Administrative Tribunal Act including the power of reviewing its decision.*”

At Para (28) of the judgment, the principles culled out by the Supreme Court are as under:-

“(i) *The power of 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) of 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 specific grounds*

(iv) *An error which is not self-evident and which can be discovered by a long process of reasoning, cannot be treated as a error apparent in the fact of record justifying exercise of power under Section 22(2) (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 a larger bench of the Tribunal or of a superior court*

*(vii) A decision/order cannot be reviewed under Section 22(3)(f).*

*(viii) 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.*

*(ix) 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.”*

5. For the reasons discussed in the foregoing paras, I do not find any merit in the RA. Accordingly, the RA is dismissed in circulation.

**MA No.1777/2018**

6. In view of the order passed in RA, no separate order is required to be passed in MA No.1777/2018, which accordingly stands disposed of.

**(K.N. Shrivastava)  
Member (A)**

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