

**CENTRAL ADMINISTRATIVE TRIBUNAL
CHANDIGARH BENCH**

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RA No. 060/00001/2018 Date of decision- 05.02.2018
In OA No. 060/00250/2015

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CORAM: HON'BLE MR. SANJEEV KAUSHIK, MEMBER (J)
HON'BLE MRS. P. GOPINATH, MEMBER (A)

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Krishan Gopal Gupta son of Sh. R.S. Gupta, AC Tech. Grade I,
Northern Railway Workshop, Jagadhari (Haryana).

.....APPLICANT IN OA

VERSUS

1. Union of India,
Through Chairman, Rail Board, Ministry of Railway, New
Delhi.
2. The General Manager,
Northern Railway HQ, Baroda House, New Delhi.
3. The Divisional Railway Manager,
Ambala Cantt.
4. The Chief Works Manager,
Railway Workshop, Jagadhari Distt. Yamuna Nagar
(Haryana).
5. Anil Kumar Chauhan son of Sh. Mohinder Pratap,
Welfare Inspector, Railway Workshop, Jagadhari
(Haryana). [Ex-parte vide order dated 03.08.2015]
- 6. Ram Parvesh Yadav son of Sh. Jai Gopal Yadav,
Welfare Inspector, Railway Workshop, Jagadhari
(Haryana). [Review applicant in RA]**

.....RESPONDENTS IN OA

BY ADVOCATE: Mr. Dhiraj Chawla, review applicant in
RA/respondent no. 6 in OA.

ORDER (ORAL)

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SANJEEV KAUSHIK, MEMBER(J):-

Present RA has been filed by Mr. Ram Parvesh Yadav who was respondent no. 6 in O.A, for review of our order dated 28.11.2017 passed in O.A No. 060/00250/2015.

2. Mr. Dhiraj Chawla, learned counsel for review applicant argues that facts have not been considered in right prospective, thus, finding recorded by this Court that vacancy is to be filled by unit wise is against the spirit of advertisement, therefore, he prayed that order under review be reviewed.

3. We have heard learned counsel for review applicant and have also gone through our order under review.

4. We have given our deep consideration to the pleadings on board and arguments raised. We are not inclined to review our order for simple reason that arguments which review applicant is raising before this Court have already been raised by official respondents and have been dealt with by this Court while deciding the O.A. Finding to this effect has been recorded in para 7 of the order. Moreover plea raised in review application also does not come within the ambit of Order 47 Rule 1 CPC read with Section 22 (3) (1) (f) of the Administrative Tribunals Act, 1985 because applicant has failed to point out any mistake apparent on record. The review applicant is trying to reargue the matter on the point which we have already considered while deciding the issue. Our view find support from the judgment of the Hon'ble Supreme Court in the case of "**State of West Bengal & Ors. Vs. Kamal Sengupta & Ors**" (2008 (8) SCC 612) in

Civil Appeal No. 1694 of 2006, decided on 16.06.2008 wherein the Hon'ble Apex Court has laid down the following guidelines:-

- (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 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 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."

5. Similar view has been taken in case of "**Subhash vs State Of Maharashtra And Anr.**" (AIR 2002 SC 2537), wherein it has been held as under:-

"3. The scope for consideration before the Tribunal was very limited. Inasmuch as this Court had found that the appellant did possess the necessary qualification as per the Rules and the Tribunal having found he was entitled for appointment in Original Application No. 94/1995, there is no justification for the Tribunal to have reviewed the matter once over again, particularly, when the scope of review is very much limited under Section 22(3)(f) of the Administrative Tribunals Act, 1985 as is vested in a Civil Court under the Code of Civil Procedure. The Tribunal could have interfered in the matter if the error pointed out, is

plain and apparent. But the Tribunal proceeded to re-examine the matter as if it is an original application before it. This is not the scope of review.

4. In that view of the matter, we think the order on review made by the Tribunal needs to be set aside. It is ordered accordingly. The order dated 27-3-1995 made by the Tribunal on the Original Application No. 94/1995 shall stand restored. The appeal is allowed accordingly.

5. However, in the circumstances of the case, we think it is appropriate to award the cost of the appellant which is quantified at Rs. 10,000/-."

In view of the above, we do not find any reason to review our order dated 28.11.2017. Accordingly, the present RA is dismissed.

(P. GOPINATH)
MEMBER (A)

(SANJEEV KAUSHIK)
MEMBER (J)

Dated: 05.02.2018.

`jk'

