

**CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH**  
**JABALPUR**

**REVIEW APPLICATION NO.202/00005/2018**  
**(in OA No.202/00204/2016)**

Jabalpur, this Tuesday, the 27<sup>th</sup> day of February, 2018

**HON'BLE MR.NAVIN TANDON, ADMINISTRATIVE MEMBER**  
**HON'BLE MR.RAMESH SINGH THAKUR, JUDICIAL MEMBER**

1. Vishnu Priyesh Bansal, S/o Shri Nemichand Bansal, Aged – 60 years, Occupation – Retired, R/o – Aditya Nagar, Morar, Gwalior (MP) - 474006

2. Bhawan Das Manani, S/o Late Shri Khanchand, Aged – 60 years, Occupation – Retired, R/o – 16, Harish Nagar, Thatipuri, Gwalior – 474011 (M.P.)  
**-Applicants**

**V e r s u s**

1. Employees State Insurance Corporation, through the Director General Employees State Insurance Corporation, CIG Marg, New Delhi – 110001.

2. The Additional Commissioner (Karmik Avam Prashasan) Karmachari Rajya Beema Nigam Mukhyalaya, CIG Marg, New Delhi 110001 (Appellate Authority)

3. The Regional Director, Regional Office, Employees State Insurance Corporation, Panchdeep Bhawan, Nanda Nagar Indore – 452011 (Disciplinary Authority)  
**-Respondents**

**O R D E R(in circulation)**

**By Navin Tandon, AM-**

This Review Application has been filed by the applicants to review the order dated 22.12.2017 passed by this Tribunal in Original Application No.202/00204/2016.

2. From perusal of the order under review it is found that in aforementioned OA No.202/00204/2016 the applicants had challenged the orders dated 13.04.2015 by which the respondent authorities had imposed, upon the applicants, penalty of reduction of pay by one stage in time scale of pay for one year with cumulative effect. The Tribunal after considering the pleadings of the respective parties, as well as the earlier decisions passed by the Tribunal and the Hon'ble High Court, filed by the applicants themselves, had dismissed the aforementioned OA No.202/00204/2016.

3. Now, the applicants have filed the present review application on the ground that the "Tribunal lost sight to consider the question of fact and law raised by the applicants and decided by the Hon'ble High Court and Tribunal that there is discrimination in the matter of punishment". In this regard, we may reproduce the relevant para of the order dated 22.12.2017 passed in OA No.202/00204/2016 as under:-

**"9. Thus, it is settled law that jurisdiction of courts in disciplinary matters and imposition of penalty is very limited. In the instant case we find that in terms of the directions issued by the Hon'ble High Court as well as by this Tribunal, the respondents authorities have again considered the matter and imposed lesser punishment upon the applicants as compared to the one imposed earlier. The competent authority of the respondents have**

duly reconsidered the matter and with a view to maintain discipline they have imposed appropriate punishment keeping in view the magnitude and gravity of the misconduct committed by the applicants. **The only ground taken by the applicants that they have not been imposed the same punishment as has been inflicted upon Autl Palhekar who had been imposed lesser punishment of withholding of one increment without cumulative effect.** As held by the Hon'ble Supreme Court in the aforementioned cases, this Tribunal, while exercising the power of judicial review, cannot normally substitute its own conclusion on penalty and impose some other penalty. **The competent authority has already imposed lesser upon the applicants in comparison to one imposed earlier, in terms of the earlier directions of the Tribunal. Therefore, now it is not appropriate for us to again direct the disciplinary/appellate authority to reconsider the penalty imposed.** In this view of the matter, we do not find any ground to interfere with the orders passed by the respondents”.

4. It may be noted that scope of review under the provisions of Order 47 Rule 1 of Civil Procedure Code, which provision is analogous to Section 22 (3) (f) of Administrative Tribunals Act, 1985 is very limited.

5. The power of review available to this Tribunal is the same as has been given to a Court under Section 114 read with Order 47 Rule 1 of the Civil Procedure Code. The apex court has clearly stated in **Ajit Kumar Rath Vs. State of Orissa and others**, (1999) 9 SCC 596 that: “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”. This Tribunal can not review its order unless the error is plain and apparent. It has clearly been further held by the apex court in the said case that: “[A]ny other attempt, except an attempt to correct an apparent error or an attempt not based on any ground set out in Order 47, would amount to an abuse of the liberty given to the Tribunal under the Act to review its judgment”.

**6.** Hon'ble Supreme Court in the matters of **Meera Bhanja (Smt.) Vs. Nirmala Kumari Choudhury (Smt.)**, (1995)1 SCC 170 referring to certain earlier judgments, observed that an error apparent on the face of record must be such an error which must strike one on mere looking at the record. An error which has to be established by a long-drawn process of reasoning on points where there may conceivably be two opinions can hardly be said to be an error apparent on the face of the record. Where an alleged error is far from self-evident and if it can be established, it has to be established by lengthy and complicated arguments, such an error can not be cured in a review proceeding.

**7.** It is also settled principle of law that the Tribunal cannot act as an appellate court for reviewing the original order. This

proposition of law is supported by the decision of the Hon'ble Supreme Court in the case of **Union of India Vs. Tarit Ranjan Das**, 2004 SCC (L&S) 160 wherein their lordships have held as under:

“The scope for review is rather limited and it is not permissible for the forum hearing the review application to act as an appellate authority in respect of the original order by a fresh order and *rehearing of the matter to facilitate a change of opinion on merits*. The Tribunal seems to have transgressed its jurisdiction in dealing with the review petition as if it was hearing an original application”.

**8.** Hon'ble Supreme Court in the matters of **State of West Bengal and others Vs. Kamal Sengupta and another**, (2008)2 SCC (L&S) 735 scanned various earlier judgments and summarized the principle laid down therein, which reads 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.”

9. Since no error apparent on the face of record has been pointed out by the applicant in the instant Review Application, warranting review of the order, in terms of the law laid down by the Hon’ble Supreme Court in the aforementioned cases, the present Review Application is misconceived and is liable to be dismissed.

10. In the result, the Review Application is dismissed at the circulation stage itself.

**(Ramesh Singh Thakur)**  
**Judicial Member**

**(Navin Tandon)**  
**Administrative Member**

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