

**CENTRAL ADMINISTRATIVE TRIBUNAL
CHANDIGARH BENCH**

RA No. 060/00068/2018 in

OA No. 060/01438/2017

This 21st day of December, 2018

P.K. Sarin

.....Review Applicant

Versus

1. Union of India through its Secretary, Ministry of Urban Development, Nirman Bhawan, New Delhi – 110 011.
2. Directorate General of Works, C.P.W.D., Nirman Bhawan, New Delhi – 110 011.

.....Respondents

ORDER (By Circulation)

BY MRS. P. GOPINATH, MEMBER(A):-

This Review Application has been filed under Rule 22(3) (f) of the Administrative Tribunals Act, 1985 by the applicant in the O.A No. 060-00068-2018 seeking review of the order passed by this Tribunal on 20.11.2018.

2. A perusal of order dated 20.11.2018 would show that all the relevant contentions raised by both sides and decisions cited on the point were considered by this Tribunal and order dated 20.11.2018 was passed as follows:-

“The applicant’s case for grant of MACP has been considered with effect from launch of MACP Scheme in 2009 by considering five APARs prior to launch of scheme and

also for every year post launch of MACP Scheme upto 2014, the year of retirement, and applicant has been declared unfit for MACP. Hence, the applicant's case having considered and applicant not having attained the required MACP Bench Mark has missed the bus and therefore, no other relief can be given to the applicant at this stage. No substantial arguments have been extended in the OA to expunge the Below Bench Mark ACRs. An effort has already been made to substitute the non-availability of ACRs of required year by considering APAR of previous year and hence on this ground also, applicant cannot be offered any succour.

For the reasons stated above, this OA, being devoid of merit, is dismissed. There shall be no order as to costs."

3. One of the grounds for filing this RA is that it was argued orally at the time of hearing the OA that the respondents communicated the ACR of the applicant for the period 2007-08 and 2010-11 after 27.04.2016 i.e. after the date of order under challenge in this OA declaring the applicant unfit for grant of 3rd MACP and also after retirement and thus the respondents have concealed the material facts in gist of the ACRs and misled the court resulting in obtaining the order dated 20.11.2018 against the applicant.

4. To fortify his claim, the Review applicant has placed fresh documents as Annexures RA-2, RA-3 and RA-4 whereby respondents were directed to provide requisite information as asked for by the applicant for the ACR relating to period 2007-08 and 2010-11. These documents were not the part of pleadings at the time of hearing the OA and 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. But the fact of the below benchmark grading of "Good" having been communicated on 16.05.2016 to which applicant filed a reply but the grading was not

upgraded has been noted by the Bench and recorded in para 5.

Hence, no new facts have been added in RA.

5. In ***Meera Bhanja (Smt) Vs. Nirmala Kumar Choudhary*** - (1995) 1 SCC 170 it was held that the scope of review is very limited. The court held:

"A review Application can be entertained only on the ground of error apparent on the face of record and not on any other ground. An error apparent on the face of record must be such an error which must strike one on mere looking at the record and would not require any long drawn process of reasoning on points where there may conceivably be two opinions. Re-appraisal of the entire evidence or error would amount to exercise of appellate jurisdiction which is not permissible by way of review application. This is the spirit of order XLVII, Rule 1 of CPC."

6. The Apex Court in ***State of West Bengal & Ors. v. Kamal Sengupta & Anr.*** - 2008 (2) SCC 735 has enumerated the principles to be followed by the Administrative Tribunals when it exercises the power of review of its own order under Section 22(3)(f) of the Administrative Tribunals Act, 1985. They 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 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 a 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.”

7. This is a case where this Tribunal has considered all the contentions of the applicant in detail in its order dated 20.11.2018. Virtually, no new point has been taken in the RA and applicant just wanted to have a rehearing of the entire with the same arguments and facts already considered in the judgement. Review application cannot be an appeal in disguise. As such we find no merit in the Review application. It is accordingly dismissed by circulation.

**(P. GOPINATH)
MEMBER (A)**

**(SANJEEV KAUSHIK)
MEMBER (J)**

Dated:
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