

**CENTRAL ADMINISTRATIVE TRIBUNAL
CHANDIGARH BENCH**

**RA No. 060/0007/2019 in
OA No. 060/00638/2016**

This 18th day of February, 2019

Smt. Munni Devi @ Manorma aged about 55 years wife of Late Sh. Ved Pal Sandhu, Ex-PA, Jhojhu, resident of Village Devwas Via Rodhan, Distt. Bhiwani.

.....Review Applicant

Versus

1. Union of India through its Secretary, Ministry of Communications, Department of Information and Technology, New Delhi.
2. Chief Post Master General, Haryana Circle, Ambala-133001
3. Superintendent of Post Offices, Bhiwani Division, Bhiwani.- 127021

.....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. 060-00638-2016 seeking review of the order passed by this Tribunal on 25.01.2019.

2. A perusal of order dated 25.01.2019 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 25.01.2019 was passed as follows:-

“11. This appears to be a case where the official was undergoing one punishment after another and was also awarded dies non for various period of unauthorized

leave amounting to 225 days. Year on year, he appears to have been punished for one misdemeanour or the other against which he neither preferred an appeal nor a revision petition. It also appears that the family of the official was unaware of all the disciplinary proceedings and service details of dies -non while filing this OA. The punishments awarded and concluded cannot be closed or withdrawn, as requested by the applicant. Only pending disciplinary cases are closed on death of employee. Past punishments awarded and completed cannot be withdrawn under the rules.

12. As per above details of disciplinary proceedings followed by punishment, and the fact that the below bench mark ACRs have been communicated to the official and he failed to follow it up by way of filing a representation, and the fact that the respondents had conducted a year on year review DPC for granting the official MACP since the launch of the MACP scheme and found him unfit, we find that no further relief can be given to the applicant. OA is dismissed, being devoid of merit. No costs."

3. One of the grounds for filing this RA is that the impugned order was passed on uncommunicated ACRs and that the purpose of communicating the ACRs cannot be achieved by communicating them after a long gap. The review applicant further states that when the benefit of 2nd MACP was denied to the applicant's husband and the employee raised the ground of non-communication of ACRs for the relevant period, the respondents woke up and served the ACRs upon the applicant much belatedly.

4. We would like to reproduced para 7 of order dated 25.01.2019 which negates the argument in the Review Application:-

"7. The official was communicated the adverse remarks vide letters dated 16.07.1990, 28.09.2000, 06.07.2009 and 01.04.2013 and no appeal or review petition was filed under the provisions of Rule 23 and 29

of CCS (CCA) Rules, 1965. Hence, the official did not avail the statutory remedy available to him.”

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 25.01.2019. Virtually, no new point has been taken in the RA and applicant just wanted to have a rehearing of the entire case 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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