

**CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH**

Review Application NO.180/00022/2019

IN

Original Application No.180/00184/2019

Tuesday, this the 28th day of May, 2019

CORAM:

HON'BLE Mr.E.K.BHARAT BHUSHAN, ...ADMINISTRATIVE MEMBER
HON'BLE MR.ASHISH KALIA, ...JUDICIAL MEMBER

1. The Chief Personnel Officer,
Southern Railway, Park Town P.O.,
Chennai – 3.
 2. The Chief Administrative Officer (Construction),
Southern Railway, Headquarters Office, Chennai – 3.
 3. The Deputy Chief Signal & Telecommunication Engineer,
(Construction), Ernakulam South,
Ernakulam – 682 011.
- ... Applicants in RA
... Respondents in OA

(By Advocate Mr.Thomas Mathew Nellimoottil)

Versus

Pramod Kumar V.K.,
S/o.V.r.Kunjappan,
Chief Office Superintendent (Construction),
Podanur, Southern Railway.
Residing at 5/459 – A, Geetham,
Prasanth Nagar, Kallekulangara P.O., Palghat.

....Respondent in RA
...Applicant in OA

ORDER
(BY CIRCULATION)

HON'BLE Mr.E.K.BHARAT BHUSHAN, ...ADMINISTRATIVE MEMBER

RA No.22/2019 in OA No.184/2019 has been filed by the respondents in OA. The OA was disposed of by this Tribunal on 05.04.2019.

2. The scope for a review application is clearly defined in various orders of the Hon'ble Supreme Court. The Hon'ble Supreme Court in the case of ***State of West Bengal & others v. Kamal Sengupta and another (2008) 3 AISLJ 209*** has held that the Tribunal can exercise the powers of a Civil Court in relation to matters enumerated in clauses (a) to (i) of sub-section (3) of Section 22 of the Administrative Tribunals Act including the power of reviewing its decision. By referring to the power of a Civil Court to review its judgment/decision under Section 114 CPC read with Order 47 Rule 1 CPC, the Hon'ble Supreme Court laid down the principles subject to which the Tribunal can exercise the power of review. At para 28 of the said judgment the Hon'ble Supreme Court culled out the principles which 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*

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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.”

3. The review applicants have maintained that the applicant in the OA has been restrained from being relieved on account of the fact that a responsible person is required to look after the Stores. However, the facts of the case reveal a different picture. The order of transfer had been issued by the first respondent, who is clearly the superior of the 3rd Respondent in terms of placement of officials. Thus, if the 3rd respondent did indeed have reasons for retaining the applicant in the present station or even getting the transfer order cancelled, he ought to have taken up the issue with the first respondent, who had issued the order. In this case with the transfer order remaining live, the 3rd Respondent seems to have arbitrarily refused to implement the same.

4. The review applicant has failed to point out any error much less an error apparent on the face of record justifying the exercise of power under sub-clause (f) of sub-section (3) of Section 22 of the Administrative Tribunals

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Act, 1985. The review application deserves to be dismissed and accordingly,
the same is dismissed. No costs.

(ASHISH KALIA)
JUDICIAL MEMBER

(E.K.BHARAT BHUSHAN)
ADMINISTRATIVE MEMBER

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List of Annexures in R.A.No.180/00022/2019 in O.A.No.180/00184/2019

1. **Annexure RA-1** – True copy of order dated 05.04.2019 of this Hon'ble Tribunal in OA No.180/00184/2019.
