

CENTRAL ADMINISTRATIVE TRIBUNAL,
ERNAKULAM BENCH

Review Application No. 180/00028/2019 in
Original Application No. 180/00895/2015

Tuesday, this the 11th day of June, 2019

CORAM:

Hon'ble Mr. E.K. Bharat Bhushan, Administrative Member
Hon'ble Mr. Ashish Kalia, Judicial Member

C. Ramachandran Nair, MTS, Parassala, Thiruvananthapuram-695 502,
 Residing at Rajesh Bhavan, Thekkupara PO, Vellarada,
 Thiruvananthapuram – 695 505. **Review Applicant**

(By Advocate : Mr. Vishnu S. Chempazhanthiyil)

V e r s u s

1. Union of India, represented by the Secretary,
 Department of Posts, Ministry of Communications,
 New Delhi – 110 001.
2. The Chief Postmaster General,
 Kerala Circle, Thiruvananthapuram – 695 033.
3. The Superintendent of Posts,
 Thiruvananthapuram South Division,
 Thiruvananthapuram – 695 036. **Respondents**

O R D E R (By circulation)

Per: Ashish Kalia, Judicial Member -

This review application had been filed by the applicant in the OA No. 180/895/2015 which was dismissed by this Tribunal vide Annexure RA1 order dated 29.3.2019. The OA was filed by the applicants claiming relief as under:

- “1. Direct the respondents to consider the appointment of the applicant in respect of the Group D vacancies of the year 2002 / 2003 as mentioned in Annexure A3.
2. Declare that the applicant entitled to be promoted as a Group D in a vacancy of the year 2002 / 2003 with all consequential benefits.

3. Direct the respondents to consider granting fixation of pay from the date of occurrence of vacancy and grant consequential annual increments and release the entire arrears there upon forthwith in terms of the directions in Annexure A1 judgment.
4. Any other further relief or order as this Hon'ble Tribunal may deem fit and proper to meet the ends of justice.
5. Award the cost of these proceedings.”

2. This Tribunal after hearing the counsel appearing for the parties and perusing the records dismissed the OA holding that the applicant is not entitled to get his appointment antedated against the vacancy/ies which arose in the year 2002-2003 for regular Group-D post.

3. 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 orders 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.”

4. By the present Review Application the case put forth by the review applicant is for re-consideration of the factual circumstance of the case which is not envisaged in the principles for review of the order as enumerated by the apex court in the aforecited dictum. In short, the review applicant seek a re-hearing of the case which is not contemplated under the power review envisaged under Section 22(3)(f) of the Administrative Tribunals Act, 1985. Further no error apparent on the face of the record could be established by the review applicants.

5. In the light of the above decision and in view of the facts and circumstances of this case, we do not find any error apparent on the face of the record which would warrant review of this Annexure RA1 order. Accordingly RA is dismissed.

(ASHISH KALIA)
JUDICIAL MEMBER

(E.K. BHARAT BHUSHAN)
ADMINISTRATIVE MEMBER

“SA”

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REVIEW APPLICANT'S ANNEXURES

Annexure RA1 – True copy of the order dated 29.3.2019 in OA No. 180/895/2015 of the Hon'ble Tribunal.

Annexure RA2 – True copy of the MA No. 180/00171/2019 in OA No. 180/00895/2015 dated 3.2.2019 filed by the applicant before the Hon'ble Tribunal.

RESPONDENTS' ANNEXURES

Nil

-X-X-X-X-X-X-X-X-