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**CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH**

Review Application NO.180/00011/2019

IN

MISCELLANEOUS APPLICATION NO.130/2019

IN

Original Application No.180/00890/2017

Tuesday, this the 26th day of March, 2019

CORAM:

**HON'BLE Mr.E.K.BHARAT BHUSHAN,
HON'BLE MR.ASHISH KALIA,**

**...ADMINISTRATIVE MEMBER
...JUDICIAL MEMBER**

1. Bharath Sanchar Nigam Ltd (BSNL)
represented by its Chairman &
Managing Director, Corporate Office No.1022B,
States Man's House,
New Delhi – 110 001.
2. The Chief General Manager,
BSNL, Kerala Circle,
Thiruvananthapuram – 695 030.

....Applicants in RA
Respondents-2&3 in OA & MA

(By Advocate Mr.George Kuruvilla)

V e r s u s

1. Shri Binoj C.B.,
S/o Balan T.K.,
Aged 37 years,
residing at Sree Vihar,
Maalthazha, Puduppanam,
Vadakara, Kozhikode.
2. Shri Deepu Chandran,
S/o Chandrasekharan PD,
Aged 33 years,
residing at Pankalayithara House,
Vadayar PO, Kottayam – 686 605.

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3. Shri K.Maxmilan,
S/o K.V.Xavier,
Aged 33 years,
Residing at Kvaungal House,
St.Xavier Road, Manjakkad,
Narakkal P.O.,
Ernakulam – 682 505.
4. Shri Subhiksh T Surendran,
S/o T.U.Surendran,
Aged 36 years,
residing at Thottumpuram,
Kumarakom PO,
Kottayam.
5. Shri Prasad Raj R.V.,
S/o G.Rajappan,
Aged 38 years,
residing at TC-48/1133, Prasadam,
Ambalathara, Poonthura PO,
Trivandrum – 695 026.
6. Shri Manu Anand S.,
S/o P.V.Sadanandan,
Aged 36 years,
residing at Parassery Manu Nivas,
Kaniyamkunnu, UC College PO,
Aluva, Ernakulam – 683 102.
7. Union of India,
represented by the Secretary to
Govt. Of India,
Ministry of Communications,
New Delhi.
8. The Sanchar Nigam Executive Association,
represented by its Kerala Circle President,
George Varghese, S/o Thomman Varghese,
DGM (Marketing), BSNL Bhavan,
Ernakulam, residing at Jyhothis House,
Perumpilly PO, Mulamthuruthy,
Ernakulam District.

...Respondents in RA
...Applicants in OA and MA

9. Shri Santhoshkumar P.,
S/o C.R.Purushothaman Nair, JTO,
Civil Sub Division 5,
CTO Building, Ernakulam, Kochi-682016,
residing at Souparnika, 3/543B,
Kannadymukku, Mary matha Road,
Thrikkakara PO.
10. Ms.Rajamony M.A.,
D/o late M.C.Achuthan,
Aged 52 years, JTO,
Presently working as SDE (Computer)
on looking after basis, Telephone Exchange,
Batjetty, Ernakulam-11, residing at Slavath,
Anaswara, Kotheri road, Vaduthala,
Ernakulam – 682 023.
11. Shri Rajeshkumar G.,
S/o M.N.Gopinathan Nair,
JTO (Electrical) Electrical Division,
BSNL Ernakulam, CTO Building,
Kochi – 682 016,
residing at Thaikkattussery,
Cherthala, Alappuzha District.
12. Shri Mohammed Nizar PA.,
S/o Late PV Abdhu, SDE (Electrical),
CTO Building, Kochi -682016,
residing at CC 55/2872,
Arathi Cherupushpam Lane,
Ernakulam, Kochi – 682020.
13. Shri Toms Antony V.,
S/o V.T.Antony, SDE (Broad Band),
DTS Building,
Kochi-16 residing at Vadaseerry House,
Vennala, Ernakulam – 682 028.
14. Shri Joseph Lukose,
S/o Sri P.M.Lukose,
Sub Divisional Engineer (External),
Thodupuzha – 685 584,
residing at Pothanparambil,
Muthalakodam PO, Thodupuzha.

15. Shri Jomon Antony,
S/o Sri K.Antony,
Sub Divisional Engineer (Civil Building),
BSNL Bhavan, Ernakulam – 682 016,
residing at KNRA 52, Keerthi Lane,
Maradu PO, Ernakulam.
16. Shri Sajan Varkey,
S/o K.C.Varkey,
Junior Telecom Officer,
CRC BSNL Bhavan,
Ernakulam, Kochi 16,
residing at Kaithara House,
Near YWCA, Alappuzha 688 001.
17. Shri Asha A.S.,
W/o Sri Ajayan T.N.,
Accounts Officer, Pay Bill,
Office of PGMAT BSNL,
Trivandrum
residing at 'Triveni',
Sreenager 62,
Kavu lane, Vallakadavu P.O.,
Thiruvananthapuram – 695 008.
18. Shri Deepak Kumar P.,
S/o Sri K.Sukumaran,
Junior Telecom Officer (EB),
BSNL Bhavan, Kannur,
Residing at Deepam, Kattuthala,
Chervathur,
Kasaragod – 671 313.
19. Shri Joshi Das Y.S.,
Aged 37 years,
S/o late G.Yesudas,
Junior Telecom Officer (Planning),
Office of the GM Mobile,
BSNL Mobile Service, CTTC Complex,
RTTC, Kaimanan,
Thiruvananthapuram,
residing at “Bethel”, TC 11/920 (%),
Nanthancode,
Thiruvananthapuram-3.

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20. Shri Shineeth T.,
Aged 38 years,
S/o O.Thankappan,
Junior Telecom Officer,
Circle AT, Office of the GMTD,
3rd floor, BSNL Bhavan, Kannur,
residing at Plot No.24,
Esteem Villa, Karapparambu,
Kozhikode.

21. Shri Sony George,
Aged 38 years,
S/o T.V.George,
Junior Telecom Officer,
O/o DE Transmission-II,
OFC, BSNL, Kottayam,
residing at Thalakkulam,
Cheevanchira, Changanacherry.

....Respondents in RA

...Respondents-1 & 4 to 17 in OA & MA

ORDER
(BY CIRCULATION)

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

RA No.11/2019 in MA No.130/2019 in OA No.890/2017 has been filed by the Respondents-2&3 in OA. The MA was allowed by this Tribunal on 20.02.2019.

2. An RA is liable to be rejected on the ground that no error apparent on the face of the record has been cited in the Review application, meriting a review. 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 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*

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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. Further, the Hon'ble Supreme Court in ***Haridas Das V. Usha Rani Banik (Smt) and others – JT 2006(3) SC 526*** held as under:

“Under O.47 R.1 CPC a judgment may be open to review inter alia if there is a mistake or an error apparent on the face of the record. An error which is not self evident and has to be detected by a process of reasoning, can hardly be said to be an error apparent on the face of the record justifying the court to exercise its power of review under O.47 R 1 CPC. In exercise of the jurisdiction under O.47 R.1 CPC it is not permissible for an erroneous decision to be 'reheard and corrected'. A review petition, it must be remembered has a limited purpose and cannot be allowed to be 'an appeal in disguise' “

4. The review applicants have failed to point out any error much less an error apparent on the face of the record justifying the exercise of power under sub-clause (f) of sub-section (3) of Section 22 of the Administrative Tribunals 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.180/00011/2019 in MA No. 130/2019 in O.A.No.180/00890/2017

1. **Annexure RA-1** – True copy of the order dated 20/2/19 in MA No.130/2019 in OA No.890/2017.
