

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

Review Application No. 180/00017/2019
in
Original Application No. 180/00155/2017

Friday, this the 5th day of April, 2019

CORAM:

Hon'ble Mr. Ashish Kalia, Judicial Member

G. Mohandas, S/o. Late P. Gopalan, aged 60 years, Retired MTS,
 Kollam HO, residing at Smitha Mandiram, Adichanallur, Kollam-
 6911573.

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**Review
Applicant**

(By Advocate : Mr. V. Sajithkumar)

V e r s u s

1. Union of India, represented by the Secretary to Government, Department of Posts, Ministry of Communications, Government of India, New Delhi – 110 001.
2. The Chief Post Master General, Kerala Circle, Trivandrum-695 033.
3. The Senior Superintendent of Post Offices, RMS KLM Division, Kollam – 691 001. **Respondents**

O R D E R (In circulation)

By Hon'ble Mr. Ashish Kalia, Judicial Member-

This review application is filed by the applicant in the OA. The OA was filed by the applicant seeking following relief:

- “(i) To declare that the applicant is entitled to be included in the Statutory Pension Scheme by accommodating him against 2002 vacancy of MTS.
- (ii) To direct the respondents to include the applicant into the Statutory Pension Scheme and grant him all consequential benefits.
- (iii) Alternatively direct the respondents to extend the benefits ordered in Annexure A6 by including him into statutory pension scheme and grant all consequential benefits.

(iv) Grant such other reliefs as may be prayed for and as the Court may deem fit to grant, and

(v) Grant the cost of this Original Application.”

The applicant sought relief to include him in the statutory pension scheme by accommodating him against 2002 vacancy of MTS and grant him all consequential benefits or in the alternative he may be extended the benefits ordered in Annexure A6. After hearing the matter in detail this Tribunal dismissed the OA on the ground that the applicant is not entitled for placing him notionally in the category of MTS from the date of occurrence of vacancies in view of the judgment of the apex court in *Y. Najithamol & Ors.*

v. *Soumya S.D. & Ors.* - Civil Appeal No. 90 of 2015, dated 12th August, 2016.

2. Review applicant has now approached this Tribunal for reviewing the order of this Tribunal in the above OA stating that this Tribunal had not properly appreciated or distinguished the orders passed by the Principal Bench of the Tribunal in OA No. 749 of 2015 and the order of this Tribunal dated 30.7.2018 in OA No. 655 of 2016, in its order dated 28.2.2019. The review applicant further submitted that the rule of precedent requires this Tribunal to follow the same or else to refer the matter to a still higher Bench.

3. It is well settled position by the Apex Court's decision in *State of West Bengal & Ors. v. Kamal Sengupta & Anr.* - 2008 (2) SCC 735 that review under Section 22(3)(f) of the Administrative Tribunals Act, 1985 is possible only on following circumstances:

“(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. Here the review applicant's case is a rehearing of the matter as if it is an appeal without pointing out any error apparent on the face of the record or any other circumstances that would warrant a review under Order 47 Rule 1 CPC.

5. Therefore, it goes without saying that the Review Application is not entertainable. The RA is dismissed. Consequently, MA No. 180/366/2019 for placing the RA before the Bench is also dismissed.

**(ASHISH KALIA)
JUDICIAL MEMBER**

“SA”

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REVIEW APPLICANT'S ANNEXURES

Annexure RA1 – True copy of the order in OA 155/2017 dated 28.2.2019

RESPONDENTS' ANNEXURES

Nil

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