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**CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH**

**Review Application Nos.181/00019/2019
in
Original Application Nos.181/00403/2017**

Thursday, this the 11th day of April, 2019

CORAM:

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

1. The Secretary (Finance),
U.T. of Lakshadweep,
Kavaratti -682 555.
2. The Agricultural Officer,
Agriculture Department,
Kalpeni Island,
Lakshadweep – 682 557.Review Applicants/
Respondents in OA No.403/2017

(By Advocate Mr.S.Manu)

vs.

Shahar Ban M.K.,
Agricultural Supervisor,
Agriculture Department,
Lakshadweep Administration,
Kalpeni Island,
Lakshadweep-682 557.Review Respondents
...Applicants in OA No.403/2017

**ORDER
(BY CIRCULATION)**

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

The Review Application No.19/2019 has been filed in OA No.403/2017
by the respondents in the OA claiming that there has been error apparent on

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the face of the record warranting recall of the order in the stated OA. It is pointed out in the RA that this Tribunal by presuming that the merger of Agricultural Supervisor with Agricultural Demonstrator had already taken place, had come to the conclusion that the respondent is eligible for pay in Level-5 is being denied the benefit as she is not having the qualification for the post of Agriculture Demonstrator. It is maintained in the RA that "the merger has not taken place yet. The merger applies only for those Agricultural Supervisor with Degree as essential qualification".

2. In the OA, the applicant had pressed her claim for Level-5 pay on the ground that she fulfilled the condition under Schedule-I of possessing Diploma in Agriculture with five years regular service in the grade. This part of the Schedule had been extracted in the order at Annexure RA1. Also in the pleadings of the respondents in the OA, nowhere has it been maintained that the merger has not been effected in respect of one category but only in respect of another.

3. 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

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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 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*

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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. 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**

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**(E.K.BHARAT BHUSHAN)
ADMINISTRATIVE MEMBER**

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List of Annexures in R.A.No.181/00019/2019 in O.A.No.181/00403/2017

1. **Annexure RA-1** – True copy of the final order 22.2.2019 in OA no.403/2017 on the file of this Hon'ble Tribunal.
