

**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH**

**R.A. No.77/2019 In
O.A. No.2788/2017**

New Delhi this the 18th day of March, 2019

**HON'BLE MS. NITA CHOWDHURY, MEMBER (A)
HON'BLE SH. S.N. TERDAL, MEMBER (J)**

Kavita Prakash (Aged about 33 years)
D/o Sh. Budh Prakash,
R/o E-431, Gali No.1,
Hardev Puri, Shahdara,
Delhi-110 093

- Applicant

Versus

Government of NCT of Delhi, through

1. The Chief Secretary,
Delhi Administration,
IP Estate, Estate, New Delhi
2. The Secretary,
Directorate of Education,
Establishment-IV Branch,
Old Secretariat, Delhi-110 092

- Respondents

ORDER BY CIRCULATION

Hon'ble Ms. Nita Chowdhury:

The facts, in brief, are that while dismissing the Original Application (OA) bearing No.2788/2017 on 26.02.2019, this Tribunal had considered all the issues raised by the Review Applicant and had passed the following order:

“7. From the factual matrix of the case it appears that applicant was enrolled for a Bachelor of Arts degree from Delhi University and simultaneously for diploma in Home Science from a Technical Institute affiliated to Board of Technical Education, Lucknow and no clarification has been obtained from the said Board of Technical Education, Lucknow, to show that the applicant can pursue a diploma at the same time from the Board of Technical Education, Lucknow when he had already enrolled for Bachelor of Arts degree through

correspondence from Delhi University. We do not find that neither of the two courses are regular courses. The said clarification of UGC only allows pursuing of the correspondence course in case where one course is regular course, which is not the case in hand. Therefore, we found prima facie both the aforesaid courses are correspondence courses and hence the case cited by the applicant is based on different footing and accordingly, plea of the applicant is not permissible as both the aforesaid courses pursued by the applicant are correspondence courses and do not come within the aforesaid clarification given by the UGC. 10

8. In view of the above, and for the foregoing reasons, the present OA is dismissed being devoid of merit. There shall be no order as to costs.”

2. Now the Review Applicant has filed the present RA bearing No.77/2019 for reviewing the indicated order, mainly on the grounds which have already been considered by this Tribunal while deciding the main OA.

3. It is well settled principle of law that the earlier order can only be reviewed if the case squarely falls within the legal ambit of review and not otherwise. Order 47 Rule 1 CPC read with Section 22(3)(f) of the Administrative Tribunals Act, 1985 regulates the provisions of review of the orders. According to the said provision, a review will lie only when there is discovery of any new and important matter or evidence which, after the exercise of due diligence was not within his knowledge or could not be produced by the review applicant seeking the review at the time when the order was passed **or made on account of some mistake or error apparent on the face of the record.**

It is now well settled principle of law that the scope for review is rather limited and it is not permissible for the forum hearing

the review application to act as an Appellate Authority in respect of the original order by a fresh and re-hearing of the matter to facilitate a change of opinion on merits. The reliance in this regard can be placed on the judgments of the Hon'ble Supreme Court in cases of ***Parsion Devi and Others vs. Sumitri Devi and Others (1997)*** 8 SCC 715, ***Ajit Kumar Rath Vs. State of Orissa (1999)*** 9 SCC 596, ***Union of India Vs. Tarit Ranjan Das (2003)*** 11 SCC 658 and ***Gopal Singh Vs. State Cadre Forest Officers' Association & Others (2007)*** 9 SCC 369.

4. An identical question came up to be decided by Hon'ble Apex Court in case ***State of West Bengal and Others Vs. Kamal Sengupta and Another (2008)*** 8 SCC 612. Having interpreted the scope of review and considering the catena of previous judgments mentioned therein, the following principles were culled out to review the orders:-

(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 of 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 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”.

5. Meaning thereby, the original order can only be reviewed if case strictly falls within the domain of Order 47 Rule 1 CPC read with Section 22(3)(f) of the Administrative Tribunals Act, 1985 and not otherwise. In the instant RA, the review applicant has not pointed out any error apparent on the face of record warranting a review of the order dated 26.02.2019. Moreover, the issues now sought to be urged, were subject matter of the OA and have already been adjudicated upon by the Tribunal.

6. In the light of the aforesaid reasons, as there is no apparent error on the face of record, hence no ground is made out to entertain the present Review Application, which is accordingly dismissed in circulation. No costs.

(S.N. TERDAL)
MEMBER (J)

(NITA CHOWDHURY)
MEMBER (A)

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