

**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH**

**RA No.12 of 2012
MA No.98 of 2012
IN
OA No.2662 of 2009**

New Delhi, this the 17th day of April, 2014

**HON'BLE SHRI G. GEORGE PARACKEN, MEMBER (J)
HON'BLE SHRI SHEKHAR AGARWAL, MEMBER (A)**

1. Shri R K Jain s/o Shri B S Jain
aged about 43 years
working as Assistant Engineer
r/o D-11/95, Rohini
Sector-8, Delhi-85
2. Shri Madan Mohan s/o Shri Sheodan Singh Verma
aged about 47 years
working as Assistant Engineer
r/o A-512, Pragati Vihar Hostel
Lodhi Road, New Delhi
3. Shri R K Dwivedi s/o Shri Virendra Nath Dwivedi
aged about 47 years
working as Assistant Engineer
r/o M-114A, Shastri Nagar, Delhi
4. Shri M S Rana s/o Shri Jagmohan Singh Rana
aged about 42 years
working as Assistant Engineer
r/o H-2/20, Shiksha Apartments Sector 6
Vasundhra, GhaziabadApplicants

(By Advocate: Dr. Ashwani Bhardwaj)

Versus

1. Union of India through the Secretary
Ministry of Information & Broadcasting
601, Shastri Bhawan, New Delhi-1
2. Director General, Doordarshan
Doordarshan Bhawan
Copernicus Marg, New Delhi-1.Respondents

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(By Advocate: Shri Rajeev Sharma)

ORDER (ORAL)

SHRI G. GEORGE PARACKEN, MEMBER (J) :

This Review Application has been filed by the respondents in OA 2662 of 2009 seeking recalling of the Order dated 6.8.2010. The operative part of the said Order reads as under:-

“4. An information under RTI served upon the applicant clearly indicated that the decision referred to above in clause 1 (x) (a to e) of the Resolution dated 29.8.2008 placing Group ‘B’ employees in the grade pay of Rs. 5400/- covers the applicants in the present OA but it does not entitle the employees of autonomous body. As we find on an admitted stand that the applicants are still the Central Government employees on deemed deputation to Prasar Bharati vide a Cabinet decision, the pay structures granted to the employees of Central Government shall mutatis mutandis apply to the applicants and rejection of their request for grade pay of Rs. 5400/- is not justifiable.

5. Resultantly, OA is allowed and impugned decision of the respondents is set aside. Respondents are directed to accord grade pay of Rs. 5400/- in PB-III after completion of four years regular service in grade pay of Rs. 4800/-, with all arrears, within a period of two months from the date of receipt of a copy of this order. No costs.”

2. The contention of the review applicants (respondents in OA) is that even though this Tribunal had noticed two grounds raised by the respondents in the OA (i) that upgraded pay scales as recommended by 6th CPC for certain section of Central Government employees and common category posts cannot be implemented in the case of employees working in Prasar Bharati which is an autonomous organization; and (ii) the revised pay structure notified vide para 1 (x) (a to e) of Department’s Resolution dated 29.8.2008 is applicable to the category/cadre of Group ‘B’ officers, this Tribunal has only considered the first ground and not given any finding on the second ground. Further they have stated that the resolution dated 29.8.2008 is not applicable to the applicants in as much as it is limited in its scope and ambit to Departments of Posts & Revenue. They have also stated that the original recommendation made by the 6th Pay Commission for grant of higher Grade Pay after four years of service was also limited to Administrative Officers/ Private Secretaries and was not meant for the universal application.

3. The review applicants have also filed a Misc. Application being MA No.98/2012 seeking condonation of delay in filing the present Review Application.

4. The review respondents (applicants in OA) filed their reply. They have submitted that this RA is misconceived and without any basis as the respondents in the OA have already implemented the order sought to be reviewed. Further they have stated that the order under review has been passed by the Tribunal on 6.8.2010 but this Review Application has been filed only on 22.11.2011.

5. The learned counsel for the review respondents (applicants in OA) has also stated that this Tribunal considered both grounds pointed out by the review applicants and it was only thereafter it passed the order dated 6.8.2010 allowing the OA. He has, therefore, submitted that this RA is liable to be dismissed on the ground of delay and on merit.

6. We have heard the learned counsel for the review applicants Shri Rajeev Sharma and the learned counsel for the review respondents (applicants in OA) Dr. Ashwani Bhardwaj. In our considered view, the submissions made by the review applicants are factually incorrect as seen from the findings of this Tribunal in paras 4 and 5 of the aforesaid Order which read as under:-

“4. An information under RTI served upon the applicant clearly indicated that the decision referred to above in clause 1 (x) (a to e) of the Resolution dated 29.8.2008 placing Group ‘B’ employees in the grade pay of Rs. 5400/- covers the applicants in the present OA but it does not entitle the employees of autonomous body. As we find on an admitted stand that the applicants are still the Central Government employees on deemed deputation to Prasar Bharati vide a Cabinet decision, the pay structures granted to the employees of Central Government shall mutatis mutandis apply to the applicants and rejection of their request for grade pay of Rs. 5400/- is not justifiable.

5. Resultantly, OA is allowed and impugned decision of the respondents is set aside. Respondents are directed to accord grade pay of Rs. 5400/- in PB-III after completion of four years regular service in grade pay of Rs. 4800/-, with all arrears, within a period of two months from the date of receipt of a copy of this order. No costs.”

7. We also find that the aforesaid Order of this Tribunal has been passed way back on 6.8.2010 and the review applicants have filed this Review Application only on 22.11.2011. In the Misc. Application No.98/2012 filed by the review applicants seeking condonation of delay in filing the present Review Application, they have only stated that on receipt of the advice of the Ministry of Finance in July 2011, they have decided to file this Review Application. Even assuming that the aforesaid submission is correct, there is no justification on their part for the further delay in filing this Review Application only in November 2011. Rule 17 (1) of the CAT (Procedure) Rules, 1987 clearly says that “No application for review shall be entertained unless it is filed within thirty days from the date of receipt of copy of the order sought to be reviewed ”

8. The scope of Review Application is very limited. It shall be within the parameters of Order 47 Rule 1 CPC, 1908. According to the said provisions, 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 Applicant seeking review at the time when the order was passed or order made, or on account of some mistake or error apparent on the face of the record, or for any other sufficient reason. In the present case, we do not find any such eventualities to review the aforesaid order dated 6.8.2010.

9. In Parsion Devi and Others vs. Sumitri Devi and Others [1997 (8) SCC 715], the Apex Court has held as under:-

" Under Order 47 Rule 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 Order 47, Rule 1 CPC. In exercise of the jurisdiction under Order 47, Rule 1 CPC it is not permissible for an erroneous decision to be "reheard and corrected". There is a clear distinction between an erroneous decision and an error apparent on the face of the record. While the first can be corrected by the higher forum, the latter only can be corrected by exercise of the review jurisdiction. A review petition has a limited purpose and cannot be allowed to be "an appeal in disguise". "

10. In Ajit Kumar Rath Vs. State of Orissa (1999 (9) SCC 596), the Apex Court reiterated that power of review vested in the Tribunal is similar to the one conferred upon a Civil Court and held:-

" The provisions extracted above indicate that the power of review available to the Tribunal is the same as has been given to a court under Section 114 read with Order 47 CPC. The power is not absolute and is hedged in by the restrictions indicated in Order 47. The power can be exercised on the application of a person on the discovery of new and important matter or evidence which, after the exercise of due diligence, was not within his knowledge or could not be produced by him at the time when the order was made. The power can also be exercised on account of some mistake or error apparent on the face of the record or for any other sufficient reason. A review cannot be claimed or asked for merely for a fresh hearing or arguments or correction of an erroneous view taken earlier, that is to say, the power of review can be exercised only for correction of a patent error of law or fact which stares in the face without any elaborate argument being needed for establishing it. It may be pointed out that the expression "any other sufficient reason" used in Order 47 Rule 1 means a reason sufficiently analogous to those specified in the rule. Any other attempt, except an attempt to correct an apparent error or an attempt not based on any ground set out in Order 47, would amount to an abuse of the liberty given to the Tribunal under the Act to review its judgment."

11. In view of the above position, we do not find any merit in this Review Application as well as in the Misc. Application seeking condonation of delay in filing the Present Review Application. Accordingly they are dismissed. There shall be no order as to cost.

(SHEKHAR AGARWAL)
MEMBER (A)

(G. GEORGE PARACKEN)
MEMBER (J)