



**Central Administrative Tribunal
Principal Bench, New Delhi**

**R.A. No. 152/2023 in
O.A. No. 192/2023**

**Orders reserved on : 25.04.2025
Orders pronounced on : 16.05.2025**

**Hon'ble Mr. R.N. Singh, Member (J)
Hon'ble Mr. Sanjeeva Kumar, Member (A)**

1. All India Civil Accounts Officer
(Sr. Accounts Officer and Pay & Accounts Officer)
Association through its President
Sh. H.C. Mathpal, Aged about 57 years
H.No. H-405, Street No. 4, Raj Nagar, Part-II
Palam Colony, New Delhi-110077
(Working as Sr. Accounts Officer, Group B)
2. Sh. Subhash Chand
Aged about 49 years
S/o Late Mohan Lal
House No. H-405, Street No. 4
Raj Nagar, Part-II, Palam Colony,
Delhi-110077
(Working as Sr. Accounts Officer, Group B)
3. Sh. Rahul Butola
Aged about 45 years
S/o Sh. Bhagat Singh Butola
R/o House No. 1749, Laxmi Bai Nagar
New Delhi-110023
(Working as Sr. Accounts Officer, Group B)
...Review Applicants

(By Advocate: Sh. Himanshu Upadhyaya)

VERSUS

1. Union of India through Secretary
Department of Personnel & Training
Ministry of Personnel, Public Grievance and Pensions
North Block, New Delhi-110001
 2. The Secretary, Ministry of Finance
Department of Expenditure
North Block, New Delhi-110001
 3. The Controller General of Accounts
Department of Expenditure, Ministry of Finance
Mahalekha Niyantrak Bhawan, E Block, CGO Complex
INA, New Delhi-110023
- ...Review Respondents

(By Advocate: Sh. S.N. Verma)

ORDER**By Hon'ble Mr. R.N. Singh, Member (J):**

This Review Application has been filed by the applicants under Section 23(3) of the Administrative Tribunals Act, 1985 read with Rule 17 of the CAT (Procedure) Rules, 1987, seeking review of the Tribunal's Order dated 24.02.2023 vide which OA No.192/2023 was disposed of in view of the undertaking given by the learned counsel for the respondents that *in spite of the cadre review being initiated by the respondents vide OM dated 12.04.2022, they are not going to*



change the status of the Sr. Accounts Officer under Central Civil Accounts Service from Group 'A' to Group 'B' and on the basis of the aforesaid undertaking, learned counsel stated in the presence of the applicant no. 1 that the OA had become infructuous. Thus, with the consent of the parties, the OA was disposed of as having become infructuous by passing an oral order.

2. The review applicants challenged the order under review before the Hon'ble High Court of Delhi by way of WP(C) No.13424/2023 which was allowed to be withdrawn with liberty to file review application before this Tribunal. Hence, the instant review.

3. In the present Review Application, the review applicants have *inter alia* taken the following grounds:-

i) While carrying out the cadre review of the Sr. Accounts Officers (in short SAOs) of Central Civil Accounts Service-GCS treating the said post as Group – B, the respondents have erred in law as well as on facts.



ii) that the fact cannot be ignored that in compliance of the orders of this Tribunal, the respondents in Execution Application produced OM dated 31.10.2019 by which the post of SAO was reclassified as Group 'A' w.e.f. 2009 and thereupon issuing the impugned OM dated 12.04.2022 for cadre review and reviewing the cadre of SAO in the category of Group 'B' post, the entire action is illegal and contrary to their own OM dated 31.10.2019 and affidavit dated 16.12.2019 filed before this Tribunal.

iii) The overall nodal agency for the purpose of cadre review is DoP&T but for Group 'A' post consultation with DoP&T cannot be ignored, which has been ignored by the respondents.

iv) The fact cannot be ignored that the direct recruitment in respect of Group 'A' post is made at JTS level [Level-10] through UPSC by conducting all India Civil Services Examination whereas promotions are made from amongst the feeder cadre.

v) As the cadre review of both ICAS and CCAS is pending, CCA is not entertaining the representations of the Association



which will affect the career progression of present incumbents of SAOs.

vi) The Tribunal's order under review is deliberate, biased, perverse, illegal, unjust, unconstitutional, malice in law, mechanical and without application of mind by way of unreasoned, bald and cryptic order as learned counsel for the applicants has never consented to the undertaking recorded in para 5 of the order under review, which is not sustainable in the eyes of law.

vii) A review of the order is considered on discovery of new and important matter or evidence which indeed is undertaking of respondents which has not been looked into by the Tribunal while passing the order.

4. The respondents have filed the reply to the RA taking the following preliminary objections –

(i) It is submitted that there is no error apparent on the face of the order under review. Hence, the order needs no review. It is further submitted that as is evident from para 6 of the Order, learned counsel for the applicants himself submitted that *in*



view of the categorical statement on behalf of the respondents that the OA has become infructuous and can be disposed of accordingly. Hence, the contention of the applicants in this regard is not acceptable.

ii) The order under review was disposed of by the Tribunal with the consent of the learned counsel for the parties and hence the stand of the learned counsel for the applicant to the effect that he has not consented to the undertaking of the respondents has no legs to stand. Moreover, the order was passed in the open court in presence of the learned counsels for the parties, hence he cannot turn around and dispute the said statement recorded at the Bar.

iii) It is further stated that in spite of the cadre review being initiated by the respondents vide OM dated 12.04.2022 (impugned in the OA), the respondents are not going to change the status of the Sr. Accounts Officer (applicants in the OA) under Central Civil Accounts Service **from Group 'A' to Group 'B'**. Hence, the career progression of the applicants/SAOs is not going to be affected adversely.



5. Review applicants have also filed a rejoinder to the reply filed on behalf of the respondents reiterating their stand as noted hereinabove and disputing the stand of the respondents.

6. We have heard the learned counsels for the parties and with their assistance we have also perused the pleadings available on record.

7. On perusal of the pleadings available on record, it is evident that the applicants had approached this Tribunal by way of the captioned OA through Sh. S.K. Gupta, learned Advocate and the respondents were represented by Sh. S.N. Verma, learned Advocate. The OA was signed and verified by one Sh. H.C. Mathpal and was also supported with an affidavit of said Sh. Mathpal in the capacity of President of the applicant no. 1 Association. In opposition to the claim of the applicants for grant of interim relief in the OA, the respondents had filed a short reply and the applicants had filed rejoinder.

8. The substantial prayer of the applicants, as would be evident from paragraph 8 of the OA, reproduced in paragraph 1 of the present Review Application, is quashing of the Office



Memorandum dated 12.04.2022 pertaining to the cadre review of Central Civil Accounts Services to the extent reviewing the cadre of Senior Accounts Officer treating the cadre as Group B, with a further direction to the respondents to carry out the cadre review of the post of Senior Accounts Officer (Group A) post in terms of OM dated 31.10.2019 and to consult the DoP&T before taking a final decision; and for award of consequential benefits etc. When the matter was taken up for consideration on 24.02.2023, learned counsel appearing for the respondents with the departmental representative had made submission that the post of Senior Accounts Officer has been held and declared by the respondents as Group A and the respondents in time to come are going to treat the said post of Senior Accounts Officer under Central Civil Accounts Services (CCAS) under the respondents as a Group A post. It had been further clarified by the learned counsel, under instructions that despite the cadre review being initiated vide the order dated 12.04.2022, impugned in the OA, the respondents were not going to change the status of such post from Group A to Group B. Such statement on behalf of the



respondents, in the presence of learned counsel for the respondents and the departmental representative was duly recorded and is evident from paragraph 4 and 5 of the impugned order dated 24.02.2023. In view of such statement on behalf of the respondents, at that very stage, learned counsel for the applicants, whose presence is duly recorded along with that of Sh. Mathpal, who has signed and verified the OA and has sworn the affidavit in support of the said OA stated that the “present OA has become infructuous and the same can be disposed of accordingly” as apparent from paragraph 6 of the impugned order. In the light of the statements by the learned counsels for the parties, present with their clients, whose attendance has also been duly recorded alongwith them in the impugned order, this Tribunal disposed of the OA as having become infructuous. Subsequent thereto, the applicants had approached the Hon’ble High Court of Delhi to challenge the impugned order dated 24.02.2023 on various grounds by way of WP(C) No. 13424/2023 and when the attention of the learned counsel for the petitioners was drawn to paragraph 6 of the impugned order, he had shown his



intention to withdraw the WP and to file a Review Application before this Tribunal. In such view of the matter, the WP was dismissed as withdrawn with liberty to the applicants herein to file a Review Application in accordance with law.

9. In paragraph (M) of the Grounds, it is contended that review of an order is considered on discovery of new and in part important matter or evidence, however, no new matter or evidence has been produced for the applicants to take a U-turn after consensual order was passed. In paragraph (K), the applicants have stated *“K. Because the orders dt. 24.02.23 issued by the Tribunal in OA No. 192/23 is deliberate, biased, perverse, illegal, unjust, unconstitutional, malice in law, mechanical and arbitrary also further the same is issued without application of judicious mind by a non-speaking, unreasoned, bald and cryptic order thus not sustainable in the eyes of law”*. Such assertions on behalf of the review applicants are either misconceived and/or contemptuous. We fail to understand that when the impugned order was passed not only in the presence of the respective counsels for the



parties but also in the presence of their clients, how it can be alleged to be deliberate, biased, unjust and without application of judicious mind and that too in the review proceedings before this Tribunal.

10. In the pleadings as well as during the oral submissions, it has been contended on behalf of the applicants that the respondents have produced OM dated 31.10.2019 (Annexure A-5 colly) during execution proceedings seeking execution of the order/judgment of the Tribunal dated 22.10.2013 in the previous round of litigation, upheld by the Hon'ble High Court and the Hon'ble Apex Court, vide which the post of Senior Accounts Officer has been held to be Group A post. However, the fact remains that the said OM was very much part and parcel of the pleadings in the OA and the applicants were aware of the same. Moreover, the OA was disposed of keeping in view the statement on behalf of the respondents that such status was not going to be changed, which was accepted by the applicants. Thus, neither any important matter and/or evidence which despite due diligence of the applicants could



not be brought to the notice of the Tribunal has been shown on behalf of the applicants warranting this Tribunal to invoke its review jurisdiction nor any apparent error has been pleaded or shown requiring the Tribunal to exercise review jurisdiction. Further, one of the grounds in support of the present Review Application, as reproduced in paragraph 3(v) above is that the respondents are not entertaining the representations of the applicant Association which will affect the career progression of the present incumbents. Thus, the applicants under the garb of seeking review have attempted to re-argue the matter and on being aggrieved by the subsequent action of the respondents in not considering the grievances of the applicants in the matter of cadre review which is not permissible in law within the review jurisdiction. We can draw support in this regard from the law laid down by the Hon'ble Apex Court in the case of **State of West Bengal & Ors. vs. Kamal Sengupta & Anr. reported in (2008) 8 SCC 612** wherein the Hon'ble Apex Court after considering the relevant provisions of Section 22(3)(f) of the Administrative Tribunals Act, 1985 and the



provisions of Order 47 Rule (1) of CPC has culled out the principles in paragraph 35 which read as under:

“35. The principles which can be culled out from the abovenoted judgments 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 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.”

11. We further find that the applicants while filing the present OA were represented through Sh. S.K. Gupta, learned Advocate whereas the present Review Application has been filed and argued by Sh. Himanshu Upadhyaya, learned Advocate. However, we do not find No Objection from the previous learned Advocate, Sh. S.K. Gupta, who had filed and argued the captioned OA on behalf of the applicants.

12. In this view of the matter, issue arises as to whether such Review Application is sustainable in law. Such issue is no more *res integra* in view of the judgment of the Hon'ble Apex Court in the case of **Tamil Nadu Electricity Board & Anr. vs. N. Raju Reddiar & Anr.** reported in (1997) 9 SCC 736, wherein the Hon'ble Apex Court has observed in paragraph 1 as under:



“...It is salutary to note that the court spends valuable time in deciding a case. Review petition is not, and should not be, an attempt for hearing the matter again on merits. Unfortunately, it has become, in recent time, a practice to file such review petitions as a routine; that too, with change of counsel, without obtaining consent of the Advocate-on-Record at earlier stage. This is not conducive to healthy practice of the Bar which has the responsibility to maintain the salutary practice of profession.....”

13. We also draw support from an order/judgment dated 04.07.2024 of the Hon’ble High Court of Judicature at Allahabad, Lucknow Bench, in Amar Nath & Anr. vs. Deputy Director of Consolidation, neutral citation no. 2024:AHC-LKO:45342, paragraphs 8-13 of which read as under:

“8. From the abovementioned paragraph, the law which has been settled by the Hon’ble Supreme Court is that no objection certificate from the erstwhile counsel has entitled the subsequent counsel engaged after the judgment to file the review petition but the same is to be seen in the light of the observation made in the same paragraph of the judgment that the subsequently engaged counsel for filing the review was neither an arguing counsel when the appeal was heard nor was he present at the time of arguments. It is unknown on what basis he has written the grounds in the review petition as if it is a re-hearing of the appeal against a judgment passed, otherwise the Advocate On Record/Advocate who originally filed the writ petition is answerable to the Court.

9. This Court in the case of [Siddheshwar Mishra vs. State of U.P. and Ors.](#) [2006 (9) ADJ 427] has reiterated and settled the provisions of law and held that review application filed by subsequent counsel is not maintainable. Relevant paragraph 14 of the aforesaid case is quoted hereinbelow:-

14. The Court is not inclined to open 'Pandora's Box' for the following reasons-



Firstly: The law is well settled that recall or review application can be filed only by the counsel who had argued the case and not by a subsequent counsel who is engaged after the decision.....

(emphasis laid)

10. In the present review petition, the grounds were taken by making allegations against the original counsel engaged initially, who has neither filed the review application nor has appeared in the Court to admit or deny allegations made against him. It would lay down a bad precedent to allow such successive review application by a subsequently engaged counsel by making allegations against the original counsel and this is a settled position in the case of [Kaniz Fatma & Others Vs. Additional District Judge & Others](#) [2008 (70) ALR 361], in which Court has taken very same view that review application cannot be filed by subsequent counsel. Relevant paragraph 25 is quoted below :-

"25. I am therefore of the considered view that once the writ petition has been decided on merits, the scope of review is very limited and successive review applications are not maintainable. The first review application has been filed by a subsequent counsel Sri Khalil Ahmad without consent of the original counsel who IS alleged to have given a wrong undertaking before the Court has neither filed review application nor has appeared in the Court to admit or deny the allegations made against him. It would be laying down a bad precedent to allow successive review applications by subsequent counsel by making allegations against the original counsel engaged initially. In the first review application the Court has considered all the aspects of the matter in its judgment and order dated 20.3.2007 by holding that the matter cannot be reopened by engaging another counsel."

11. The Division Bench of this Court in the case of [Krishna Pathak](#) (supra) has held that the subsequent counsel is not permissible to argue review petition when the initial petition was not argued by him.

12. Very recently, this Court in the case of [Jag Mohan Agarwal](#) (supra), after relying upon the judgments mentioned above has held that mere obtaining a 'No objection Certificate' would not suffice for filing of review application by a newly



engaged subsequent counsel. The relevant paragraph no. 9 of the aforesaid judgment is quoted hereinbelow:-

"9. Learned counsel for applicant has placed reliance upon the judgment of this Court in the matter of Sharda Prasad Mishra (supra). From the perusal of the said judgment, it is apparently clear that it is not in favour of applicant rather against him. The only fact which is pointed out by learned counsel for applicant is about "No Objection Certificate". In the present case, there is no "No Objection Certificate" in favour of applicant from earlier counsel. Even otherwise, mere obtaining of "No Objection Certificate" is not suffice for filing of review application by a subsequent counsel....."

13. As per the settled proposition of law discussed above, the recall/review application can be filed only by a counsel, who had argued the case and not by a subsequent counsel, who is engaged after the decision."

14. In the light of the aforesaid, we are of the considered view that the present Review Application is devoid of any merit and the same is misuse of process of law. Accordingly, the Review Application is dismissed with cost of Rs. 10,000/- payable to the Prime Minister's Relief Fund.

(Sanjeeva Kumar)
Member (A)

(R.N. Singh)
Member (J)

/NS/