

**BEFORE THE UTTARAKHAND PUBLIC SERVICES TRIBUNAL
AT DEHRADUN**

Present: Hon'ble Mr. Ram Singh

----- Vice Chairman (J)

Hon'ble Mr. D.K.Kotia

-----Vice Chairman (A)

**REVIEW APPLICATION NO. 05/DB/2018
(ARISING OUT OF THE JUDGMENT DATED 20.08.2018 PASSED IN CLAIM
PETITION NO. 23/DB/2018)**

1. Surendra Kumar, S/o Late Shri Radhey Shyam, Currently working as Divisional Forest Officer, Kalsi Soil Conservation Forest Division, Kalsi.
2. Indresh Upadhyaya, S/o Late Shri Chetna Nand Upadhyaya, Currently working as Divisional Forest Officer, Lansdown Soil Conservation Forest Division, Lansdown.
3. Rajendra Singh Kahera, S/o Late Shri Bhanu Lal Kahera, Currently working as Divisional Logging Manager, Uttarakhand Forest Development Corporation, Curzon Road, Dehradun.
4. Kamta Prasad Verma, S/o Shri Ram Awtar Verma, Currently working as Sub-Divisional Forest Officer, Raipur, Mussoorie Forest Division, Mussoorie.
5. Surendra Pratap Singh, S/o Late Shri Dharam Veer Singh, Currently working as Divisional Forest Officer, Alaknanda Soil Conservation Forest Division, Gopeshwar.
6. Shyam Sunder Vaishya, S/o Late Shri Murlidhar Vaishya, Currently working as Divisional Logging Manager, Chakrata (Dehradun)
7. Ravindra Nath Srivastav, S/o Late Shri Kamla Prasad Srivastav, Currently working as Sub-Divisional Forest Officer, Tons Forest Division, Purola.
8. Inder Singh Negi, S/o Shri Mahendra Singh Negi, Currently working as Divisional Logging Manager, Uttarkashi.
9. Ravikant Mishra, S/o Late Sri Uma Shankar Mishra, Deputy Director, ILSP, Pauri Watershed, Pauri.
10. Sant Ram, S/o Late Shri Chhote Lal, Currently working as Divisional Forest Officer, Lansdown Forest Division, Lansdown.

11. Dheeraj Kumar Bachwan, S/o Late Shri Saagar Chandra, Currently working as Sub-Divisional Forest Officer, Lansdown Soil Conservation Forest Division, Lansdown.

.....Petitioners

VERSUS

1. State of Uttarakhand through Additional Chief Secretary/Principal Secretary (Forest), Civil Secretariat, Dehradun.
2. Secretary (Finance), Civil Secretariat, Dehradun.
3. Principal Chief Conservator of Forest, Uttarakhand, Dehradun.

.....Respondents

Present: Sri Shashank Pandey, Ld. Counsel
for the petitioners
Sri V.P.Devrani, Ld. A.P.O.
for the Respondents No.1 & 2
Sri Kunal Dey, Holding brief of
Sri Aman Rab, Ld. Counsel
for the Respondent No. 3

JUDGMENT

DATED: OCTOBER 24, 2018

HON'BLE MR. D.K.KOTIA, VICE CHAIRMAN (A)

1. This is an application for review of the judgment dated 20.08.2018 passed by this bench of the Tribunal in Claim Petitions Nos. 21/DB/2018, 22/DB/2018, 23/DB/2018, 30/DB/2018, 31/DB/2018 and 32/DB/2018.
2. The review application has been filed by the petitioners of the claim petition No. 22/DB/2018.
3. The petitioners had preferred the claim petition No. 22/DB/2018 seeking the following reliefs:-

"A. To issue order or direction to call for records and to quash the impugned G.O. no. 132/XXVII (7)40/2018 dated 04.05.2018 passed by respondent no. 2, amending the previous G.O. dated 06.11.2013 (Annexure A2).

B. To issue order or direction to call for records and to quash the impugned order no. Ka. 2247/1-8(3) dated 08.05.2018 (Annexure A1).

C. To issue order or direction directing the respondent no. 3 to implement the order dated 11.04.2018 passed by the Respondent no. 1 and give the pay scale of 37,400-67,000 Grade Pay Rs. 8,900 to the petitioners as 3rd ACP from the date of entitlement.

D. To issue order or direction directing the respondents to give arrears of difference in salary along with an interest of 14% p.a. from the date of accrual to the date of actual payment.

E. To give any other relief that the Court may deem fit and proper in the circumstances of the case.

F. To give cost of petition to the petitioners.”

4. After hearing the petitioners/respondents at length, the claim petitions (Nos. 21/DB/2018, 22/DB/2018, 23/DB/2018, 30/DB/2018, 31/DB/2018 and 32/DB/2018) were decided by a common judgment by the Tribunal on 20.08.2018. The observations of the Tribunal in paragraphs 16.3 and 17 of the judgment are as under:-

“16.3 During the course of writing the judgment, learned counsel for the petitioners has submitted an application on 20.08.2018 along with copy of the judgment of the Hon’ble High Court at Nainital passed in WPSB No. 200 of 2018 on 27.07.2018, the same is reproduced below:-

“WPSB No. 200 of 2018

Hon’ble Rajiv Sharma, J.

Hon’ble Alok Singh, J.

Mr. Rakesh Thapaliyal, Advocate for the petitioners.

Mr. Paresh Tripathi, Chief Standing Counsel for the State of Uttarakhand/respondent Nos. 1 to 5.

The petitioners were granted higher pay scale in the year 2014 and 2015. The same have been withdrawn vide order dated 08.05.2018.

The case of the petitioners, in a nutshell, is that the petitioners have neither misled, nor misrepresented or concealed the facts at the time when the higher pay scale was granted to them. The petitioners have not been issued any cause notice before reducing their salary vide order dated 8th May, 2018.

The petitioners have suffered civil and evil consequences. There is the violation of principle of natural justice.

Accordingly, the writ petition is allowed. Impugned orders dated 04.05.2018, 08.05.2018 and

consequential order if any are quashed and set aside with liberty reserved to the respondents to proceed with the matter strictly in accordance with law.

Pending application, if any, also stand disposed of.

*Sd/-
(Alok Singh, J.)*

*Sd/-
(Rajiv Sharma, J.)*

27.07.2018"

17. In view of the order of the Hon'ble High Court at Nainital dated 27.07.2018 above, neither there is any need nor we are in a position to pass any order in respect of relief sought in the claim petitions as the impugned orders dated 04.05.2018 (Annexure: A2) and 08.05.2018 (Annexure: A1) have already been set aside by the Hon'ble High Court with liberty reserved to the respondents to proceed with the matter strictly in accordance with law.

The claim petitions are disposed of accordingly.

The Copy of this order be placed on files of the Claim Petitions No. 21/DB/2018, 22/DB/2018, 23/DB/2018, 30/DB/2018, 31/DB/2018 and 32/DB/2018.

(RAM SINGH)
VICE CHAIRMAN (J)

(D.K.KOTIA)
VICE CHAIRMAN (A)"

5. The petitioners have sought the following reliefs in this Review Petition:-

"It is thus most humbly prayed that this Hon'ble Tribunal may be pleased to review its observations made under para 10.7, 10.11, 11.1, 12.1, 12.2, 12.3, 15.9 and 15.10 of the order dated 20.08.2018 and decide the implementation of the G.O. dated 11.04.2018 in the light of the order dated 27.07.2018 passed by Hon'ble High Court."

6. We have heard learned counsel for the petitioners, learned A.P.O. on behalf of the respondents No. 1 and 2 and learned counsel on behalf of respondent no. 3 and also perused the record.

7. Learned counsel for the petitioners has contended in paragraph 3(a) of the Review Application that the orders dated 04.05.2018 and 08.05.2018 were challenged in the claim petition on the ground that the order dated 04.05.2018 is substantive in nature as it has

introduced a new condition in grant of 3rd ACP. It has been stated by learned counsel for the petitioners that neither the arguments of the petitioners are recorded nor the case laws produced by the petitioners have been mentioned in the judgment in this regard. Learned A.P.O. in his counter argument has stated that the orders dated 04.05.2018 and 08.05.2018 have already been set aside by the Hon'ble High Court at Nainital and the judgment of the Tribunal has taken cognizance of the same in its judgment dated 20.08.2018. It has further been argued by learned A.P.O. that after setting aside the order dated 04.05.2018, the respondent No. 2 has issued another Government Order No. 104(1)XXVII(7)40/2018 dated 28.08.2018 in which it has been stated that the G.Os. dated 02.12.2000, 12.03.2001, 23.08.2005 and 28.11.2017 are applicable while deciding the cases of ACP under the G.O. dated 06.11.2013. Since another G.O. in respect of ACP has been issued (in place of G.O. dated 04.05.2018), this Review Application has been rendered infructuous and the petitioners have a fresh cause of action. We find that during the course of writing the judgment, learned counsel for the petitioners submitted the judgment of the Hon'ble High Court at Nainital (dated 27.07.2018) on 20.08.2018 (reproduced in paragraph 4 of this order). Since Hon'ble High Court had already set aside the G.O. dated 04.05.2018 and 08.05.2018, there was no occasion for the Tribunal to discuss the ground of the petitioners that "the order dated 04.05.2018 was substantive in nature as it had introduced a new condition in grant of 3rd ACP". It would be worthwhile to repeat observation of the Tribunal in paragraph 17 of the judgment dated 20.08.2018 which reads as under:-

"17. In view of the order of the Hon'ble High Court at Nainital dated 27.07.2018 above, neither there is any need nor we are in a position to pass any order in respect of relief sought in the claim petitions as the impugned orders dated 04.05.2018 (Annexure: A2) and 08.05.2018 (Annexure: A1) have already been set aside by the Hon'ble High Court with liberty reserved to the respondents to proceed with the matter strictly in accordance with law."

In view of above, we are of the opinion that this ground of Review Application is thoroughly misconceived and has no review value.

8. Learned counsel for the petitioners has contended in paragraph 3(b) of the Review Application that the finding of the Tribunal in paragraph 10.7 of the judgment dated 20.08.2018 that G.O. dated 12.03.2001 is in existence is patently incorrect. He further says that the G.O. dated 08.03.2011 (Annexure: A5 to the Claim Petition) was not seen by the Tribunal which has quashed the G.O. dated 09.02.2010 and thereby making G.O. dated 28.02.2009 operational again. We would like to observe that the G.O. dated 08.03.2011 was duly considered by the Tribunal. Neither the counsel for the petitioners at the time of argument used the G.O. dated 08.03.2011 to show that the G.O. dated 12.03.2001 does not exist nor the G.O. dated 08.03.2011 mentions anywhere that the earlier G.Os. (dated 02.12.2000, 12.03.2001 and 23.08.2005) do not exist. In fact, the respondent No. 2 further issued the G.O. dated 28.11.2017 in which G.Os. dated 02.12.2000, 12.03.2001 and 23.08.2005 were reiterated. The Tribunal has in a very elaborate manner discussed various G.Os. and service rules in paragraph 10.1 to 10.10 in its judgment dated 20.08.2018 and arrived at the following conclusion in paragraph 10.11 of its judgment dated 20.08.2018:-

“10.11 After hearing learned counsel for the petitioners and learned A.P.O. on behalf of the respondent No. 2 and after perusing the record, we are of the view that the G.O. dated 06.11.2013 is restoration of the position which was prevailing during the 5th Pay Commission period and the G.O. dated 02.12.2000 (adopted by the State of Uttarakhand vide G.O. dated 12.03.2001), G.O. dated 23.08.2005 and G.O. dated 28.11.2017 exist and quite relevant for the purpose of defining the “post of promotion” as mentioned in the G.O. dated 06.11.2013 and our conclusion in this regard is that since there are no posts of promotion available for the Range Officers in the cadre structure under their Service Rules of either 1951 or 2010, the petitioners can get the benefit of 1st, 2nd and 3rd Time Scale/ACP only in the form of next higher grade in the Pay Matrix Table of the Pay Commission and accordingly the petitioners are entitled to the Grade Pay of Rs. 5400, Rs. 6600 and Rs. 7600 as three financial upgradations as per the G.O. dated 06.11.2013.”

It becomes clear from above that the Tribunal had drawn a reasonable and justifiable conclusion after considering all the relevant facts, Government Orders and relevant Service Rules. Learned counsel for the petitioners has also stated in paragraph 3(b) of the Review Application that “Had this fact been considered germane to the issue during the course of the arguments the petitioners would also have enclosed or produced G.O. dated 17.10.2008. By saying this, the petitioners want the re-hearing of the case which is not permissible while doing the exercise of “Review”. The settled legal position is that a judgment may be open to review if there is 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 cannot be said to be an error apparent on the face of the record. A review petition has a limited purpose and cannot be allowed to be “an appeal in disguise.” It is also a settled principle of law that in the review application, no new fact can be considered by the Tribunal. The Tribunal can only go through the judgment and the evidence which was already on record. We, therefore, do not find any review value in the contentions of the petitioners in paragraph 3(b) of the Review Application.

9. Learned counsel for the petitioners in paragraph 3(c) of the Review Application has also questioned the conclusion of the Tribunal in paragraph 10.11 of its judgment on the basis of G.Os. dated 23.08.2005 and 28.11.2017. The contention of learned counsel for the petitioners is that whether G.O. dated 28.11.2017 was based upon G.Os. which are in vogue even today or not were not germane to the issue and that is why no discussion at length was done during the course of the arguments on the provisions made in G.O. dated 28.11.2017. It has further been argued that the Tribunal has incorrectly determined the relevant service rules. We are of the considered view that all the contentions raised by the petitioners in the claim petitions were dealt and discussed by the Tribunal while arriving at findings in its judgment dated 20.08.2018. The petitioners through this Review Application are trying to re-open the decided issues and making an attempt for re-hearing of the case. No new

argument or additional evidence (which was not on record) is permissible in exercise of review jurisdiction. It is well settled legal position that the scope of review is very limited and an order or judgment can be reviewed only after it is established that it suffers from error apparent on the face of record. Review is not an appeal providing opportunity to a party for re-hearing on the same question which was already decided. In another words, it cannot be used as a forum to re-establish or re-argue the matter on merit. Thus, the points raised by the petitioners in paragraphs 3(c) of Review Application are misconceived and outside the scope of review.

10. Petitioners have contended in paragraph 3(d) of Review Application that the fact that the petitioner No. 1 (in claim petition No. 23/DB/2018) was promoted to the post of Deputy Director was never discussed. We find that this fact was already on record. In the claim petition (No. 23/DB/2018) itself the petitioner No. 1 has been shown "Deputy Director". The counsel for the petitioners has further argued that the petitioner No.1 (in claim petition No. 23/DB/2018) was promoted under the new rules which came into existence on 26.07.2017, replacing the Rules of 1993. In our view, the counsel for the petitioners is trying to re-open and re-argue the issue of the existence of the promotion post of Deputy Director which was created in 1998 under the Service Rules of 1993. The issue of existence of post of Deputy Director under the service rules was elaborately discussed in the order of the Tribunal dated 20.08.2018 in paragraphs 11.1 to 11.3. All the contentions raised by the petitioners in the claim petition were dealt and discussed. After considering all the relevant facts, Government Order and relevant service rules, the Tribunal gave its conclusion in paragraph 11.3 which reads as under:-

"11.3 We have perused the U.P. Forest Service Rules, 1993 (which are applicable in the State of Uttarakhand) and do not agree with the contention of learned counsel for the petitioners that the post of Deputy Director has not been created under the Rules. We find that the post of Deputy Director has been created under Rule 4 of the U.P. Forest Service Rules, 1993 which reads as under:-

“4. Cadre of Service.-(1) The strength of the service and of each category of posts therein shall be such as may be determined by the Government.

(2) The strength of the service and of each category of posts therein shall until orders varying the same are passed under sub-rule(1) be as given below:

| Name of the post | Number of Posts | | |
|----------------------------------|-----------------|-----------|-------|
| | Permanent | Temporary | Total |
| Assistant Conservator of Forests | 97 | 63 | 160 |

Provided that:

- (i) the appointing authority may leave unfilled or hold in abeyance any vacant post without thereby entitling any person to compensation;
- (ii) **The Governor may create such additional, permanent or temporary posts from time to time as he may consider proper.”**

Perusal of above Rule makes it clear that strength of the service of each category of post shall be determined by the Government, the strength of service and each category of post can be changed by the Government by passing an order under Rule-4(1) above and the Governor may create additional posts from time to time as he may also consider proper under Rule 4(2) (ii) above.

In view of this, we are of clear opinion that the post of Deputy Director (Grade Pay Rs. 6600) is duly created post by the Government under Rule -4 of the U.P. Forest Service Rules, 1993 vide G.O. dated 30.06.1998 (Annexure: R-2 to the W.S. of Respondent no. 3).”

It is clear from above that the point raised by the petitioners in paragraph 3(d) in regard to availability of the promotional post of Deputy Director only from 26.07.2017 when new rules came into force is misconceived and the issue has been dealt with in the body of the Tribunal’s order dated 20.08.2018 and the conclusion reached by the Tribunal in paragraph 11.3 of the order dated 20.08.2018 has been reproduced above. Thus, the ground 3(d) in Review Application cannot be accepted and it has no review value.

11. The petitioners in paragraph 3(e) of Review Application have raised the issue regarding Pay Scale of DCF and have pointed out shortcomings in the order of the Tribunal dated 20.08.2018. The Tribunal

has very elaborately discussed the issue in paragraphs 12.1, 12.2, 12.3, 13 and 14 of its order dated 20.08.2018 and reached a reasonable and justifiable conclusion after considering all the relevant facts, Government Orders and material available on record. The counsel for the petitioners argued that letter of PCCF dated 04.12.2015 (Annexure: 9 to R.A) shows that the pay scale of DCF was given as 2nd ACP. But we also found on record (Annexure: 1 to W.S. of respondent No. 2) another letter dated 27.07.2017 by which the letter dated 04.12.2015 had been withdrawn. There is once again an attempt by the petitioners to re-argue the issue by asking the Tribunal to re-appreciate the evidence and reconsider the matter. The order of the Tribunal is well considered order. There is no error of law or facts which is apparent on the face of the record. An error which has to be established by a long drawn process of reasoning on points where there may conceivably be two opinions can hardly be said to be an error apparent on the face of record. Therefore, the point raised by the petitioners in paragraph 3(e) of Review Application is misconceived and cannot be considered in review proceedings.

12.1 The petitioners have contended in paragraph 3(f) of the Review Application that the promotion from the post of DCF to the post of CF as concluded by the Tribunal in paragraphs 15.9 and 15.10 was neither discussed during the course of arguments nor were they a part of the pleadings. The contention of the petitioners are factually incorrect in this regard. The petitioners had very clearly taken the shelter of the Indian Forest Service Rules for their claims in the claim petitions.

12.2 We find it appropriate to reproduce the paragraph 4(b) of the claim petitions which reads as under:-

“4(b). That, the first promotional post for the Range Officer is Assistant Conservator of Forest (hereinafter called ACF). As per rule 5 of U.P. Forest Service Rules 1993, 50% posts of ACF is filled by promotion from Range Officers. The second promotional post for Range Officer is Deputy Conservator of Forest (hereinafter called DCF). As per Rule 8 & 9 of Indian Forest Service (Recruitment) Rules, 1966, 33% posts of IFS are filled by promotion from ACF. From the above mentioned provisions of the service rules, it is clear

that the Range officers are also the feeding cadres of IFS having the stake of 16.5% in ideal condition. The third promotional post for the Range Officer is Conservator of Forest (hereinafter called CF) wherein the promotion is made as per Forest Service (Recruitment) Rules 1966. Therefore, as per service rules, the three successive posts of promotion for Range Officer were/are ACF, DCF & CF. For kind perusal of the Hon'ble Court, the copy of U.P. Forest Service Rules 1993 and Indian Forest Service (Recruitment) Rules, 1966 are enclosed with this petition as Annexure A-3 and Annexure A-4. "

12.3 It is clear from above that the petitioners relied on the Indian Forest Service (Recruitment) Rules, 1966 for the purpose of promotion from the post of DCF to CF. The petitioners mentioned wrong rules (inadvertently) in this regard. The correct rules for the purpose of promotions in IFS are the Indian Forest Service (Pay) Rules, 2007.

12.4 We considered the issue regarding IFS Rules carefully and recorded our findings in the order dated 20.08.2018 in paragraphs 15.1 to 15.10. It would be appropriate to reproduce the findings:-

"15.1 Learned counsel for the petitioners has contended that the petitioners are entitled to Second ACP of Grade Pay Rs. 6600 as DCF in the IFS and since the next promotion from the post of DCF is made to the post of CF (in the IFS), the petitioners are entitled to the Grade Pay of the CF (Rs. 8900) as the Third ACP.

15.2 We have made an attempt here to examine whether the next promotion from the post of DCF is CF in the Indian Forest Service.

15.3 The Indian Forest Service (Pay) Rules, 2007 provide Rules in respect of the "promotions" and the "pay scales" associated with the promotions.

15.4 Rule-2(k) of the said Rules defines the "Promotion" in the IFS as under:-

"Promotion" means appointment of a member of the Service to the next higher grade over the one in which he is serving at the relevant time.

15.5 Rule 3(1) of the Indian Forest Service (Pay) Rules, 2007 provides the Pay Bands and Grade Pays admissible to an IFS officer as follows:-

A. Junior Scale: Pay-Band – 3: Rs.15600-39100 plus Grade Pay Rs.5400;

B. Senior Scale:

(i) Senior Time Scale: Pay-Band - 3: Rs.15600-39100 plus Grade Pay Rs.6600;

(ii) Junior Administrative Grade: Pay-Band - 3: Rs.15600-39100; plus Grade Pay Rs.7600;

(iii) Selection Grade: Pay-Band - 4: Rs.37400-67000; plus Grade Pay Rs.8700;

C Super Time Scale:

(i) Conservator of Forests of Forests : Pay-Band – 4: Rs.37400-67000; plus Grade Pay Rs.8900;

(ii) Chief Conservator of Forests/Regional Chief Conservator of Forests : Pay-Band – 4: Rs.37400-67000; plus Grade Pay Rs.10000;

D Above Super Time Scale –

(i) Additional Principal Chief Conservator of Forest : 7 HAG Scale : Rs.67000 (annual increment @ 3%)-79000/- Grade Pay : nil;

(ii) HAG + Scale: Rs.75500- (annual increment @ 3%)-80000/- Grade Pay : nil;

(iii) Apex Scale : Rs.80000/- (fixed), Grade Pay : nil

.....

Note 1: Appointment of a member of the Service to the Senior Time Scale and above shall be regulated as per the provisions in the Guidelines regarding promotion to various grades in the Indian Forest Service.

15.6 *Rule 6(3) of the Indian Forest Service (Recruitment) Rules, 1966 provides that the initial appointment of persons recruited to the IFS by promotion from the State Forest Service shall be in the Senior Scale of Pay.*

15.7 *The petitioners have contended that their second post of promotion is DCF (in the IFS) having Grade Pay Rs. 6600 (Senior Time Scale).*

15.8 *As is clear from the above position of IFS (Pay) Rules, the next “promotion” from the Grade Pay Rs. 6,600 is “Junior Administrative Grade” the Grade Pay of which is Rs. 7600.*

15.9 *It is, therefore, clear from the above Rule position that the next promotion from the post of DCF having Grade Pay Rs. 6600 is not made to the post of CF (Grade Pay Rs. 8900). After the post of DCF (Grade Pay Rs. 6,600), there are promotions in Junior Administrative Grade (Grade Pay Rs. 7600) and in the Selection Grade (Grade Pay Rs. 8700) and only after that the promotion is made to the post of CF (Grade Pay Rs. 8,900).*

15.10 *In view of above, the contention of the petitioners that next promotion from the post of DCF (Grade Pay Rs. 6,600) is made to the post of CF (Grade Pay Rs. 8900) is patently against the IFS (Pay) Rules and, therefore, their claim of Grade Pay of Rs. 8900 for the 3rd ACP is grossly misconceived and cannot sustain. We have no hesitation in holding that the contention of the petitioners that promotion from the post of DCF (Grade Pay Rs. 6600) is made to the post of CF (Grade Pay Rs. 8900) is based on wrong facts and the same is against the Rules and this alone is sufficient to reach a conclusion that the*

petitioners have no case and the very basis of the claim for the Grade Pay Rs. 8900 (as Third ACP) is not tenable.”

12.5 We are, therefore, of very clear view that the contentions of the petitioners in paragraph 3(f) are misconceived and are of no “review value.”

13. The petitioners have also contended in paragraph 4 of Review Application that “the petitioners had also as prayer No.(c) prayed for issue order or direction directing the respondents No. 3 to implement the order dated 11.04.2018 passed by Respondent No.1. That, since the Hon’ble High Court vide order dated 27.07.2018 passed in Writ Petition No. 200 of 2018 (S/B) has quashed the G.O. dated 04.05.2018 and office order dated 08.05.2018, therefore, G.O. dated 11.04.2018 came into force once again. However, Hon’ble Tribunal failed to appreciate the order dated 27.07.2018 passed by Hon’ble High Court for the purpose of deciding the prayer (c) i.e. for the implementation of G.O. dated 11.04.2018.” As we have mentioned earlier, during the course of writing the judgment dated 20.08.2018, the counsel for the petitioners submitted an application on 20.08.2018 along with copy of the order of the Hon’ble High Court at Nainital (passed in WPSB No. 200 of 2018 on 27.07.2018) wherein the Hon’ble High Court has set aside the G.O. dated 04.05.2018 and office order dated 08.05.2018 “with liberty reserved to the respondents to proceed with the matter strictly in accordance with law.” As the respondents were given the liberty by the Hon’ble High Court, we found it appropriate to observe in our judgment dated 20.08.2018 as under:-

“17. In view of the order of the Hon’ble High Court at Nainital dated 27.07.2018 above, neither there is any need nor we are in a position to pass any order in respect of relief sought in the claim petitions as the impugned orders dated 04.05.2018 (Annexure: A2) and 08.05.2018 (Annexure: A1) have already been set aside by the Hon’ble High Court with liberty reserved to the respondents to proceed with the matter strictly in accordance with law”

In view of above, there is no “review value” of the contention of the petitioners in paragraph 4 of their Review Application.

14. For the reasons stated in the preceding paragraphs, the decision of the Tribunal dated 20.08.2018 is a well considered decision and it does not require any review on the points raised by the petitioners in their Review Application. In fact, the scope of review is very limited and only any manifest error which is apparent on the face of record can only be corrected in review. The Tribunal cannot act as an Appellate Court for the re-appraisal or re-appreciation of its own judgment in the proceedings of review. Even if, for the sake of argument, it is assumed that there is any shortcoming in the judgment of the Tribunal, even then it cannot be corrected in the proceedings of review. The erroneous decision can be corrected only by the Higher Court. It is not permissible for an erroneous decision to be reheard and corrected in the exercise of the review jurisdiction. The error apparent on the fact of the record can only be corrected in the exercise of the review jurisdiction. Having considered the submissions made and keeping in view the scope of review, no case or ground is made out to review the judgment of the Tribunal dated 20.08.2018. We are of the definite view that there is no force in Review Application and the same is liable to be dismissed.

ORDER

The Application for Review is hereby dismissed. No order as to costs.

(RAM SINGH)
VICE CHAIRMAN (J)

(D.K.KOTIA)
VICE CHAIRMAN (A)

DATE: OCTOBER 24, 2018
DEHRADUN

KNP