

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

Present: Hon'ble Mr. Ram Singh

-----Vice Chairman (J)

Hon'ble Mr. Rajeev Gupta

-----Vice Chairman (A)

**REVIEW PETITION NO.01/DB/2020
(ARISING OUT OF JUDGMENT DATED 05.03.2020,
IN CLAIM PETITION NO. 107/DB/2019)**

Govind Ballabh Oli (male), aged about 58 years, S/o Late Sri Hari Dutt Oli,
R/o House No. 129, Old Nehru Colony, Haridwar Road, Dehradun.

.....**Review applicant/ Petitioner**

VERSUS

1. State of Uttarakhand through its Chief Secretary, Govt. of Uttarakhand.
2. Additional Chief Secretary, Secretariat Administrative Department, State of Uttarakhand.

.....**Respondents**

Present: Dr. N.K.Pant, Advocate for the review applicant/petitioner.

Sri V.P.Devrani, A.P.O. for the Respondents.

JUDGMENT

DATED: SEPTEMBER 25, 2020

1. This review has been preferred by the review applicant/petitioner for review of the judgment and order dated 05.03.2020, passed by this Court.

2. The grounds of review are that like Shri Arjun Singh, who was granted the benefit of time scale vide G.O. No. 1554 issued on the same date of abolition of the post by G.O. No. 1552, petitioner should be treated equally on the ground of parity. It is also submitted that the sequence of the G.Os. issued by the Government shows that Shri Arjun

Singh was granted the benefit after restoring the post, hence, such post should be deemed to be in existence. Accordingly, the review applicant/petitioner being eligible for such benefit, should be granted such benefit. The review applicant has raised the point that when Shri Arjun Singh was granted this benefit even after abolition of the post, so, on the basis of parity, he should also be allowed the same. The review applicant has also raised the point that the G.O. for abolition of the post, was issued without getting the approval from the Cabinet hence, it is not a lawful decision for abolition of the post.

3. Learned A.P.O. has raised objection that the above grounds raised for review, have no meaning. Shri Arjun Singh was granted the benefit with back date i.e. from 01.09.2016, in compliance of the order of the Hon'ble High Court and on the date of grant of benefit, the post was in existence. Whereas, the petitioner's right would have matured only after the retirement of either Shri Arjun Singh or Shri Tikam Singh who retired in April 2019 and on 31.12.2018 respectively and in the meantime, the post was abolished. He has raised an objection that the petitioner cannot raise the point about the internal proceedings of the government, regarding Cabinet approval. If the G.O. was issued by the competent authority, it is lawful order for all purposes. Learned A.P.O. has also contended that the applicant wants to file an appeal by way of this review, against the order of this court by itself and new facts cannot be raised by way of such review petition.

4. We have heard both the sides and perused the record.

5. It is an admitted fact that the scope of review is very limited. No one can be allowed to raise a new case by way of a review petition. We have gone through the judgment passed by this Court and find that all the points were discussed in detail and nothing has been left untouched. In para 17 of the judgment, we have clearly mentioned that there is difference between 'having eligibility for getting higher pay' and 'having his right finally matured against the post'. Several persons

may come within the eligibility criteria, but if such benefit is limited to certain number of posts, then only such number of persons, out of eligible persons, will get the benefit.

6. In this case, only two posts were sanctioned for granting such scale. Admittedly, Shri Arjun Singh was senior to the petitioner, his right was decided by the Hon'ble High Court and he was granted the benefit of promotional scale w.e.f. 01.09.2016 i.e. from back date by the government, in compliance of the Hon'ble High Court order and Shri Arjun Singh continued to occupy the post till his retirement in April 2019 and in the meantime, on 05.10.2018, the post was abolished.

7. The contention raised by review applicant cannot be accepted that for granting the benefit of the post to Shri Arjun Singh, such post was restored. Shri Arjun Singh was granted the benefit with retrospective date and the order granting such benefit to Shri Arjun Singh was made effective prior to the date of abolition, i.e. 05.10.2018 and it makes no difference that chronological order of both the G.Os.(i.e. granting benefit and abolishing the post) was differently written. There is no point in the argument of the review applicant in this respect.

8. Against one post, lying vacant, the review applicant, G.B.Oli and other persons were also eligible, but right of only one person was to be matured, against the vacant post, and rightful direction was issued by this Court to consider all the eligible persons for granting such benefit to anyone of them, against one vacant post, by adopting rightful procedure. When only one post was lying vacant till 05.10.2018, then only one person could be allowed such benefit against such vacant post.

9. We find that in the judgment dated 05.03.2020, passed by this Court, all the aspects were clearly discussed and considered. There is nothing to be reviewed. There is no such merit for review of the

judgment and a new case cannot be raised in a review petition, because the scope of review is very limited.

10. Considering all the contentions raised by both the parties, we are of the view that the review has no merit and is liable to be dismissed. Accordingly, the review petition is hereby dismissed.

(RAJEEV GUPTA)
VICE CHAIRMAN (A)

(RAM SINGH)
VICE CHAIRMAN (J)

DATED: SEPTEMBER 25, 2020
DEHRADUN.

KNP