

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL  
MUMBAI**

**REVIEW APPLICATION NO.01 OF 2016  
In  
ORIGINAL APPLICATION NO. 277 OF 2015**

**DISTRICT :SATARA**

Shri Uttam Krishna Desai, )  
Aged 52 Yrs, Working as S.D.A.O., )  
Karad, Dist. Satara, )  
R/O. Gajanan C.H.S., Karad, )  
Dist. Satara. )  
Address For Service of Notice:- )  
Shri Arvind V. Bandiwadekar, )  
Advocate Having Office at 9, )  
"Ram-Kripa," Lt. Dilip Gupte Marg )  
Mahim, Mumbai – 400 016. )...**Applicant**

**VERSUS**

The State of Maharashtra, )  
Through Principal Secretary, )  
Agriculture, Animal Husbandary, )  
Dairy Development & Fisheries )  
Department, Having Office at )  
Mantralaya, Mumbai – 400 032. )...**Respondent**

Shri A.V. Bandiwadekar, learned Advocate for the Applicant.

Shri K.B. Bhise, learned Presenting Officer for the Respondents.

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**CORAM : Shri Rajiv Agarwal, Vice-Chairman**

**DATE : 12.04.2016**

**ORDER**

1. Heard Shri A.V. Bandiwadekar, learned Advocate for the Applicant and Shri K.B. Bhise, learned Presenting Officer for the Respondents.

2. This Review Application has been filed by the Applicant seeking recall of order dated 4.12.2015 in O.A.No.277 of 2015 and the Applicant is praying that O.A. may be allowed.

3. Learned Counsel for the Applicant argued that the Applicant had challenged order dated 27.3.2015 passed by the Respondent, transferring him to Gadchiroli in the aforesaid O.A. This was ostensibly done on account of the Departmental Enquiry being pending against the Applicant for his misconduct while posted in Karad. Learned Counsel for the Applicant argued that the Applicant could not file sur-sur-rejoinder to the sur-rejoinder filed by the Respondent on 1.7.2015. This has resulted in this Tribunal passing the order dated 4.12.2015, based on the averments of the Respondent in the sur-rejoinder. Learned Counsel for the Applicant argued that Hon'ble S.C. in Writ Petition (Civil) no.82 of 2011 in T.S.R. Subramanium Vs. Union of India has directed the Government to set up Civil Services Board. The State of Government has issued G.R. dated 31.1.2014 setting



up such Civil Services Board. The Respondent issued consequent G.R. dated 5.5.2014 for Agriculture Department. The implementation of this G.R. dated 31.1.2014 was stayed and the stay was vacated on 18.2.2015. Learned Counsel for the Applicant stated that the impugned order of the Applicant was issued on 27.3.2015, when the G.R.s dated 31.1.2014 and 5.5.2014 were operative. It is obligatory on the part of the Respondent to follow provisions of this G.R. dated 5.5.2014.

4. Learned Counsel for the Applicant argued that the order dated 27.3.2015 is, therefore, invalid as it has been issued without reference to the Civil Services Board. Learned Counsel for the Applicant admitted that this issue was not specifically raised by the Applicant in the O.A. Learned Counsel for the Applicant stated that the present case is covered by residuary clause of order 47 of C.P.C. viz. "any other sufficient reason" which will enable the case to be reviewed. Learned Counsel for the Applicant argued that the order dated 4.12.2015 may be reviewed and O.A. no.277 of 2015 may be allowed.

5. Learned Presenting Officer (P.O.) argued on behalf of the Respondent that the Applicant has not been able to point out any error apparent on the face of record in the order dated 4.12.2015 passed by this Tribunal in O.A.No.277 of 2015. If the Applicant failed to plead an issue, this can not be allowed to be raised in Review Application, which will mean reopening the whole case. Learned P.O. argued that

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the G.R. dated 5.5.2014 was revived by communication dated 18.2.2015 and the proposal to transfer the Applicant was resubmitted to Hon'ble C.M. in the month of January, 2015 itself before that. It was, therefore, not necessary to refer the matter to the Civil Services Board.

6. The scope of review is decided by Hon'ble S.C. in the case of Ajit Kumar Rath Vs. State of Orissa and others: (1999) 9 SCC 596. Hon'ble S.C. has held that power of review available to the Tribunal is the same as given to a court under Section 114 read with order 47 CPC. The power can be exercised on the application of a person on the discovery of new and important matter or evidence which after 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 request of the Applicant in the present case is appears to be covered by this stipulation and not "any other sufficient reason." The Applicant claims that he was not aware about the G.R. about Civil Services Board. A Government Servant challenging his transfer cannot plead ignorance of decision of Hon'ble S.C. or the G.R. governing transfers. If this plea is allowed, the plea that a Government servant was not aware of the provisions of the Maharashtra Government Servants Restriction on Transfers and Prevention of Delay in Discharge of Official Duties Act, 2005 may also have to be entertained. The claim of the Applicant that the present Review Application is maintainable as he failed to make a particular pleading while filing O.A. is unsustainable. It was for him to raise all relevant issues, which were

important to decide the O.A. The issue of reference to Civil Services Board was not considered as it was not raised by the Applicant in the O.A.

7. The Applicant has failed to show any error in the order of this Tribunal. His plea that the O.A. may be reopened to allow him to raise additional issue is rejected. This R.A. is dismissed with no order as to costs.

Sd/-

**(RAJIV AGARWAL)**  
**(VICE-CHAIRMAN)**

**Date : 12.04.2016**

**Place : Mumbai**

**Dictation taken by : SBA**

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