

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL  
MUMBAI**

**REVIEW APPLICATION NO.21 OF 2019  
IN  
ORIGINAL APPLICATION NO.238 OF 2016  
WITH  
REVIEW APPLICATION NO.09 OF 2020  
IN  
ORIGINAL APPLICATION NOS.536 TO 538 OF 2018  
WITH  
REVIEW APPLICATION NO.13 OF 2020  
IN  
ORIGINAL APPLICATION NOS.539 & 540 OF 2018  
AND  
ORIGINAL APPLICATION NOS.775 TO 777 2018  
AND  
ORIGINAL APPLICATION NO.1084 OF 2018**

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**REVIEW APPLICATION NO.21 OF 2019  
IN  
ORIGINAL APPLICATION NO.238 OF 2016**

1. The State of Maharashtra. )  
Through Principal Secretary, )  
Water Resource Department, )  
Erstwhile known as Irrigation Dept. )  
Mantralaya, Mumbai – 400 032. )
  
2. The Executive Engineer, )  
Hydrology Project Division )  
G Barrack, Central Building, )...**Applicants**  
Pune – 411 001. )(**Org. Resp. Nos.1 & 2**)

**Versus**

1. Shri Madhukar Antu Patil )  
Age 61 years, Occ. Retired )  
R/o Vidhi Hights, 1<sup>st</sup> floor, Flat No.4, )  
Near Sai Mandir, Kalamba, Kolhapur. )...**Respondent (Ori. Applicant)**

2. The Accountant General, M.S. )  
 Pratishta Bhavan, 2<sup>nd</sup> floor, 101, )  
 Maharshi Karve Road, New Marine )  
 Lines, Mumbai 400 020. )... **Ori. Respondent No.3**

**WITH**

**REVIEW APPLICATION NO.09 OF 2020  
 IN  
 ORIGINAL APPLICATION NO.536 OF 2018**

1. The Superintending Engineer, )  
 Ratnagiri, Irrigation Circle, )  
 Kuvarbao, Dist. Ratnagiri. )
2. The Executive Engineer, Irrigation )  
 Project Works Division, Chiplun, )  
 Dist. Ratnagiri. )...**Applicants**  
**(Org. Resp. Nos.2 & 3)**

**Versus**

1. Smt. Shubhada Uday Salgaonkar, )  
 (Wife-55 yrs), Miss Kajal Uday )  
 Salgaonkar, (Daughter-25 yrs) )  
 Both residing at F-7, Vinayak Sadan,) )  
 Gawali Titha, Opp. Hotel Saish, )  
 Vaishyawadi, Sawantwadi-416510. )...**Respondent (Ori. Applicant)**
2. The State of Maharashtra. )  
 Through Principal Secretary, )  
 Water Resource Dept, Mantralaya, )  
 Mumbai – 400 032. )...**Org. Respondent No.1**
3. The Accountant General, M.S. )  
 Pratishta Bhavan, 2<sup>nd</sup> floor, 101, )  
 Maharshi Karve Road, New Marine )  
 Lines, Mumbai 400 020. )...**Ori. Respondent No.4**

**WITH**

**REVIEW APPLICATION NO.09 OF 2020  
IN  
ORIGINAL APPLICATION NO.537 OF 2018**

1. The Superintending Engineer, )  
Ratnagiri, Irrigation Circle, )  
Kuarbao, Dist. Ratnagiri. )
2. The Executive Engineer, Irrigation )  
Project Works Division, Chiplun, )  
Dist. Ratnagiri. )  
**)...Applicants**  
**)(Org. Resp. Nos.2 & 3)**

**Versus**

1. Shri Vishwanath Babu Pawar )  
Age 59 years, Occ. Retired Jr. )  
Engineer, R/o. Bhaktdham Niwas, )  
Opp. Vindhyaashini Mandir, )  
Ravtale, Chiplun, Tq. Chiplun, )  
Dist. Ratnagiri. )  
**)...Respondent (Ori. Applicant)**
2. The State of Maharashtra. )  
Through Principal Secretary, )  
Water Resource Dept, Mantralaya, )  
Mumbai – 400 032. )  
**)...Org. Respondent No.1**
3. The Accountant General, M.S. )  
Pratishta Bhavan, 2<sup>nd</sup> floor, 101, )  
Maharshi Karve Road, New Marine )  
Lines, Mumbai 400 020. )  
**)...Ori. Respondent No.4**

**WITH**

**REVIEW APPLICATION NO.09 OF 2020  
IN  
ORIGINAL APPLICATION NO.538 OF 2018**

1. The Superintending Engineer, )  
Ratnagiri, Irrigation Circle, )  
Kuarbao, Dist. Ratnagiri. )
2. The Executive Engineer, Irrigation )  
Project Works Division, Chiplun, )  
Dist. Ratnagiri. )  
**)...Applicants**  
**)(Org. Resp. Nos.2 & 3)**

**Versus**

1. Shri Shivprakash R. Ghatge )  
Age 60 years, Occ. Retired Civil Eng.)  
Asst. and R/o. 105, Vijayvihar, )  
Behind MSEB at & Post Pag, )  
Chiplun, Tq. Chiplun, )  
Dist. Ratnagiri. )...**Respondent (Ori. Applicant)**
  
2. The State of Maharashtra. )  
Through Principal Secretary, )  
Water Resource Dept, Mantralaya, )  
Mumbai – 400 032. )...**Org. Respondent No.1**
  
3. The Accountant General, M.S. )  
Pratishta Bhavan, 2<sup>nd</sup> floor, 101, )  
Maharshi Karve Road, New Marine )  
Lines, Mumbai 400 020. )...**Ori. Respondent No.4**

**WITH**

**REVIEW APPLICATION NO.13 OF 2020  
IN  
ORIGINAL APPLICATION NO.539 OF 2018**

1. The Superintending Engineer, )  
Ratnagiri, Irrigation Circle, )  
Kuarbao, Dist. Ratnagiri. )
  
2. The Executive Engineer, Sindhudurg )  
Irrigation Division, Tilara Canal Div. )  
Charate-Sawantwadi, )...**Applicants**  
Dist. Sindhudurg. )...**(Org. Resp. Nos.2 & 3)**

**Versus**

1. Shri Ashok Jagannath Morajkar, )  
Age 61 years, Occ. Retired Civil )  
Engi. Asst.R/o. House No.1421, )  
Harsawantwada, At & Post Mazgaon,)  
Tq.Sawantwadi, Dist. Sindhudurg. )...**Respondent (Ori.Applicant)**

2. The State of Maharashtra. )  
Through Principal Secretary, )  
Water Resource Dept, Mantralaya, )  
Mumbai – 400 032. )...**Org. Respondent No.1**
3. The Accountant General, M.S. )  
Pratishta Bhavan, 2<sup>nd</sup> floor, 101, )  
Maharshi Karve Road, New Marine )  
Lines, Mumbai 400 020. )...**Ori. Respondent No.4**

**WITH**

**REVIEW APPLICATION NO.13 OF 2020  
IN  
ORIGINAL APPLICATION NO.540 OF 2018**

1. The Superintending Engineer & )  
Administrator, Command Area )  
Development Authority, Nashik. )
2. The Executive Engineer, Nashik )  
Irrigation Division, Sinchan Bhavan )  
Parisar Trimbak Road, Nashik. )...**Applicants**  
**(Org. Resp. Nos.2 & 3)**

**Versus**

1. Shri Pandurang J. Bhamre. )  
Age 59 years, Occ. Retired Civil )  
Engi. Asst.R/o. House No.1, )  
Ganadhish Hights, near )  
Dhanwantari College, Abhiyanta )  
Nagar, Dist. Nashik. )...**Respondent (Ori. Applicant)**
2. The State of Maharashtra. )  
Through Principal Secretary, )  
Water Resource Dept., Mantralaya, )  
Mumbai – 400 032. )...**Org. Respondent No.1**
3. The Accountant General, M.S. )  
Pratishta Bhavan, 2<sup>nd</sup> floor, 101, )  
Maharshi Karve Road, New Marine )  
Lines, Mumbai 400 020. )...**Ori. Respondent No.4**

**WITH  
REVIEW APPLICATION NO.13 OF 2020  
IN  
ORIGINAL APPLICATION NO.775 OF 2018**

1. The Superintending Engineer & )  
Administrator, Command & )  
Development Authority, Solapur. )
2. The Executive Engineer, Ujjani Dam) )  
Management Division, Bhimanagar, )  
Tq.Medha, Dist. Solapur )  
)**...Applicants**  
**(Org. Resp. Nos.2 & 3)**

**Versus**

1. Shri Balkrishna Gopal Kshirsagar ) )  
Age 58 years, Occ. Retired Jr. )  
Engineer, R/o. 3306/5, Daphodils, )  
Nagzari Mala, Savata Mali Nagar, )  
Indapur, Dist. Pune. )  
)**...Respondent (Ori. Applicant)**
2. The State of Maharashtra. ) )  
Through Principal Secretary, )  
Water Resource Dept, Mantralaya, )  
Mumbai – 400 032. )  
)**...Org. Respondent No.1**
3. The Accountant General, ) )  
Pay Verification Unit, Central Build. )  
Pune. )  
)**...Ori. Respondent No.4**

**AND**

**REVIEW APPLICATION NO.13 OF 2020  
IN  
ORIGINAL APPLICATION NO.776 OF 2018**

1. The Director & Superintending ) )  
Engineer, Irrigation Research and )  
Development, Pune – 411001. )
2. The Executive Engineer, ) )  
Irrigation Research Division, )  
Molodina Road, Camp, Pune 411001)  
)**...Applicants**  
**(Org. Resp. Nos.2 & 3)**

**Versus**

1. Shri Shirish V. Deshpande )  
Age 58 years, Occ. Jr. Engineer )  
R/o. Asirwad Plot No.25, )  
Sidhivinayak Nagar, Behind Hotel )  
Nagaland, Pandharpur, )  
Tal.Pandharpur, Dist. Solapur. )...**Respondent (Ori. Applicant)**
2. The State of Maharashtra. )  
Through Principal Secretary, )  
Water Resource Dept, Mantralaya, )  
Mumbai – 400 032. )...**Org. Respondent No.1**
3. The Accountant General, M.S. )  
Pratishta Bhavan, 2<sup>nd</sup> floor, 101, )  
Maharshi Karve Road, New Marine )  
Lines, Mumbai 400 020. )...**Ori. Respondent No.4**

**AND**

**REVIEW APPLICATION NO.13 OF 2020  
IN  
ORIGINAL APPLICATION NO.777 OF 2018**

1. The Superintending Engineer and )  
Administrator, CADA, Solapur. )
2. The Executive Engineer, )  
Bhima Development Division No.2, )  
Mohite Nagar, Hotgi Road, Solapur. )...**Applicants**  
**(Org. Resp. Nos.2 & 3)**

**Versus**

1. Shri Gajanan Shrinath Kulkarni )  
Age 61 years, Occ. Retired Jr. Engineer )  
R/o. Hariom Residency Building No.1,)  
Flat No.A-15, Isbavi, Tq. Pandharpur, )  
Dist. Solapur. )...**Respondent (Ori. Applicant)**
2. The State of Maharashtra. )  
Through Principal Secretary, )  
Water Resource Dept, Mantralaya, )  
Mumbai – 400 032. )...**Org. Respondent No.1**
3. The Sr. Accounts Officer, Indian )  
Audit & Accounts Department, )

Pratishta Bhavan, 2<sup>nd</sup> floor, 101, )  
 Maharshi Karve Road, Mumbai - 20. )...**Ori. Respondent No.4**

**AND**

**REVIEW APPLICATION NO.13 OF 2020  
 IN  
 ORIGINAL APPLICATION NO.1084 OF 2018**

1. The Superintending Engineer and )  
 Regional Water Conservation Officer,)  
 Soil and Water Conservation Circle, )  
 Pune. )
2. The District Water Conservation )  
 Officer, Soil and Water Conservation )  
 Department, Solapur, Ujjani Colony,) )  
 Near Janta Bank, Dist. Solapur. )...**Applicants**  
**(Ori. Respondents)**

**Versus**

1. Shri Mukhadas S.A. Shaikh )  
 Age 58 years, Occ. Retired Jr. )  
 Engineer and R/o. 1648, Prabhakar )  
 Nagar, Gunjoti, Beher Peth, )  
 Taluka : Umarga, )  
 Dist : Osmanabad. )...**Respondent**  
**(Ori. Applicant)**
2. The State of Maharashtra. )  
 Through Principal Secretary, )  
 Water Resource Dept, Mantralaya, )  
 Mumbai – 400 032. )...**Org. Respondent No.1**
3. The Accountant General, M. S. )  
 Pratishta Bhavan, 2<sup>nd</sup> floor, 101, )  
 Maharshi Karve Road, Mumbai 20. )...**Org. Respondent No.4**

**Ms. S.P. Manchekar, learned Chief Presenting Officer for Applicants**  
**(Ori. Respondents)**

**Shri U.V. Bhosale, learned Advocate for the Respondents (Ori.**  
**Applicants)**



**CORAM : SHRI A.P. KURHEKAR, MEMBER-J**

**DATE : 08.02.2021**

**JUDGMENT**

1. These Review Applications are filed under Section 22(3)(f) of Administrative Tribunals Act, 1985 read with Section 47 of Civil Procedure Code seeking review of Judgment delivered in O.As whereby the impugned order withdrawing the benefits of Time Bound Promotion (TBP)/Assured Career Progression Scheme (ACPS) were quashed and the period of service spent on Work Charged Establishment was directed to be considered for grant of benefit of TBP/ACPS.

2. Shortly stated facts giving rise to these R.As are as under :-

All these Review Applications are arising from the decisions rendered in Original Applications in which common issue was whether the service of the Applicants on Work Charged Establishment can be considered for grant of TBP in terms of G.R. dated 08.06.1995. In all these O.As, the Applicants were initially appointed on Work Charged Establishment and thereafter, they were absorbed on the post of Civil Engineering Assistant. Initially, the Respondents have granted TBP to them considering their service on Work Charged Establishment. Accordingly, they availed the benefits till the retirement. It is after retirement only, in view of objections raised by Accountant General, the Respondents down-graded their pay withdrawing the benefit of TBP and passed orders of recovery of excess payment paid to them on account of grant of TBP. All these O.As were heard and decided by this Tribunal and impugned orders were quashed with the finding that Applicants are entitled to consider their service done on Work Charged Establishment for computing the period of 12 years for the benefit of TBP.

3. O.A.No.238/2016 was decided first in point of time by Judgment dated 25.06.2019. Thereafter, O.As No.536 to 540 of 2018, O.As No.775

to 77 of 2018 and O.A.No.1084/2018 decided by common Judgment delivered on 10.10.2019. While deciding second group of O.As, this Tribunal referred to its earlier decision in first O.A. The Respondents have initially filed R.A.21/2019 to review the decision rendered in O.A.238/2016 and thereafter, have filed R.A.No.9/2020 challenging the decision in O.A.No.536 to 538/2018 and also filed R.A.13/2020 challenging the decision rendered by the Tribunal in O.As No.539 & 540/2018, O.As No.775 to 777/2018 and O.A.No.1084/2018. Since all these R.As are arising from common issue, they are decided by common order.

4. While delivering the decisions in O.As referred to above, the Tribunal amongst other aspects has also observed that the Finance Department had issued letters dated 18.03.1998 and 18.06.1998 thereby giving direction to concerned Departments to consider and count earlier service period spent on Work Charged Establishment as Technical Assistant for grant of benefits of first TBP. In all these matters, the Applicants were initially appointed as Technical Assistant on Work Charged Establishment and later, they were absorbed on the post of Civil Engineering Assistant.

5. In all these R.As, the sole and common ground pressed into service is that Nagpur Bench of this Tribunal while deciding O.As No.900 and 901 of 2017 (Decided on 19.07.2019) referred its earlier decision in O.A.No.617/2014 decided on 02.12.2015 and O.A.No.317/2014 decided on 11.08.2017 wherein it was contended by the Government that there is no record of issuance of letters dated 18.03.1998 and 08.06.1998 that any such letters were released issued by the Finance Department. The Tribunal while deciding O.As. No. 317 and 617 of 2014 has accepted this contention and dismissed the O.A. amongst other grounds. Thus, the decisions rendered in O.As No.317 and 617/2014 were relied upon by the Government before Nagpur Bench while hearing of O.As No.900 and 901 of 2017 and accordingly, in view of doubt about the existence of

letters dated 18.03.1998 and 18.06.1998, the O.As were dismissed on 19.07.2019.

6. As stated above, these R.As are filed solely on the ground that this Tribunal has erred in relying upon the letters dated 18.03.1998 and 18.06.1998 as the existence as well as authenticity of these letters were doubted by the Tribunal (Nagpur Bench) in O.A. referred to above, and therefore, there being apparent error on the face of record, the Respondents have filed these R.As.

7. Ms. S.P. Manchekar, learned Chief Presenting Officer submits that in view of observations and finding in O.A.Nos.900 and 901 of 2017 decided by Nagpur Bench doubting authenticity of letters dated 18.03.1998 and 18.06.1998, this Tribunal should not have relied upon all these letters. She fairly concedes that Respondents came to know about the decision in O.As.No.900 and 901 of 2017 subsequently and this aspect was not brought to the notice of this Tribunal while deciding O.A. No.238/2016 decided on 25.06.2019 as well as O.As No.536 to 540 of 2018, O.As No.775 to 777 of 2018 and O.A.1084/2018 decided on 10.10.2019. She further submits that in view of decision of Hon'ble Supreme Court in **(2009) 3 SCC 661 (Punjab State Electricity Board & Ors. Vs. Jagjivan Ram & Ors.)**, the service spent on Work Charged Establishment cannot be considered for the benefit of TBP as Work Charged employees cannot be treated on a par with regular employees. Thus, according to her, there is apparent error of law on the face of record and all R.As deserve to be allowed.

8. Per contra, Shri U.V. Bhosale, learned Advocate for the original Respondents has submitted that the scope of review is very limited and the ground now pressed into service that the Judgment of Nagpur Bench in O.A.Nos.900 and 901 of 2017 cannot be a ground for review of the Judgment. He has further pointed out that the original Respondents were very much aware of the decision rendered in O.As 900 and 901 of 2017 on 19.07.2019 but it was not brought to the notice of this Tribunal

while deciding group of O.As by Judgment dated 10.10.2019. According to him, there is no discovery of new evidence which could not be produced despite exercise of due diligence so as to attract Order 47 Rule 1 of CPC. He further submits that indeed, the Government has implemented some of the decisions rendered by the Tribunal whereby the period spent on Work Charged Establishment was counted for the grant of TBP. According to him, there is no apparent error on the face of record and present R.As are not at all maintainable and the remedy was to challenge the decision before higher forum only.

9. Before dealing with the ground raised in review and its acceptability, it would be apposite to reproduce Order 47 Rule 1 of CPC to see whether in facts and circumstances of the present matter, the review is permissible. Order 47 Rule 1 of CPC is as follows :-

**“1. Application for review of judgment.-** (1) Any person considering himself aggrieved.-

- (a) by a decree or order from which an appeal is allowed, but from which no appeal has been preferred,
- (b) by a decree or order from which no appeal is allowed, or
- (c) by a decision on a reference from a Court of Small Causes,

and who, from 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 decree 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, desires to obtain a review of the decree passed or order made against him, may apply for a review of judgment to the Court which passed the decree or made the order.

(2) A party who is not appealing from a decree or order may apply for a review of judgment notwithstanding the pendency of an appeal by some other party except where the ground of such appeal is common to the applicant and the appellant, or when, being respondent, he can present to the Appellate Court the case on which he applied for the review.”

10. Needless to mention that the review proceedings have to be strictly confined to the ambit and scope of Order 47, Rule 1 of CPC. The review is by no means an appeal in disguise whereby the matter is re-heard.

True, under Order 47, Rule 1 of CPC, the Judgment may be opened to review, if there is mistake or error apparent on the face of record. An error which is not self-evident and has to be detected by the process of reasoning can hardly be said to be an error apparent on the face of record justifying the Court to exercise its powers of review. In exercise of jurisdiction under Order 47 of CPC, it is not permissible that the matter to be re-heard and erroneous view to be corrected. Suffice to say, it must be remembered that the Review Petition cannot be allowed as an appeal in disguise. There is clear distinction between an erroneous decision and error apparent on the face of record. Erroneous decision can be corrected by the higher forum in appeal in Writ Jurisdiction, whereas error apparent on the face of record can be corrected by exercise of review jurisdiction. This is fairly settled legal position.

11. Now turning to the present RAs, at the very outset, it needs to be stated that OAs were not allowed solely on relying letters dated 18.03.1998 and 18.06.1998 and indeed, O.As. were allowed considering various Judgments holding the field. In this behalf, the Tribunal placed reliance on the decision of Hon'ble High Court in ***Writ Petition No.3815/2012 (Subhash Cheke Vs. Maharashtra Jeevan Pradhikaran) decided on 29.08.2013*** which was arising from similar situation. Apart, the Tribunal also placed reliance on the decision rendered by Hon'ble High Court Bench at Nagpur in ***Writ Petition No.5185/2015 (Namdeo B. Paikrao & Ors. Vs. Maharashtra Jeevan Pradhikaran, Mumbai)*** wherein Hon'ble High Court held that the Petitioners therein were entitled to the benefit of pay scale of Junior Engineer on completion of 12 years of service from the date of their entry in the cadre of Technical Assistant/Mistry/Karkoon, etc. Suffice to say, the decision was not rendered solely on the basis of letters dated 18.03.1998 and 18.06.1998, the authenticity of which is sought to be doubted in the present RAs.

12. Apart, the issue of discrimination has been elaborately considered by the Tribunal having noticed that the similar benefit was granted to others. At this juncture, it would be material to see the file noting from the file of Finance Department, which is at Page No.63 of R.A.No.21/2019. Following contents in this behalf are material.

“महालेखापाल कार्यालयाने सूद्धा केवळ मूळ पदावरील कार्यव्ययी आस्थापनेच्या सेवेबाबत मूळ मुददा उपस्थित केलेला आहे. मूळ पदावरील रुपांतरित अस्थाची आस्थापना तसेच नियत अस्थाची आस्थापनेवरील सेवा गृहीत धरण्याबाबत त्या कार्यालयाचा कोणताही आक्षेप असल्याचे दिसत नाही. याबाबत असेही नमूद करण्यात येते की, स्थाअरा संवर्गात सुमारे चार हजार कर्मचा-यांचा समावेश असून त्यामधील बहुतांश कर्मचा-यांना काबप / आश्वासित प्रगती योजनेचा फायदा देताना त्यांच्या मूळ पदावरील सर्व आस्थापनावरील सेवा विचारात घेण्यात आलेल्या आहेत. सबब, वित्त विभागाच्या अभिप्रायानुसार नव्याने निर्देश दिल्यास ते पुर्वलक्षी प्रभावाने लागू केल्यास सदर कर्मचा-यांना दिलेले लाभ काढून घ्यावे लागतील व मोठ्या प्रमाणात वसूली करावी लागेल.

ज्या स्थाअरांनी कनिष्ठ अभियंत्यांची व्यावसायिक परिक्षा उत्तीर्ण केलेली नाही त्यांना कनिष्ठ अभियंतेची वेतनश्रेणी काबप /आप्रयो अंतर्गत देण्यात येत नसली तरी मा. सर्वोच्च न्यायालयाच्या एका निर्णयानुसार सा.बां. वि ने त्यांच्या विभागातील कर्मचा-यांना वयोधिक्याच्या कारणास्तव सदर परिक्षा उत्तीर्ण होण्यापासून सूट अनुज्ञेय केलेली आहे व त्यामुळे भविष्यात या विभागाकडूनही तशी सूट दिली गेल्यास त्या कर्मचा-यांनाही वरीलप्रमाणे फायदा अनुज्ञेय होणार आहे. सबब अशाप्रकारे वसूली केल्यास मोठ्या प्रमाणात न्यायालयीन प्रकरणे उदभवू शकतील. या विभागाची दि.१८/३/९८ व दि. १८/६/९८ ची पत्रे वित्त विभागाच्या सहमतीने निर्गमित केलेली असल्याने सदर न्यायालयीन प्रकरणांमध्ये शासनाची भूमिका अवघड होणार आहे व या परिस्थितीत शासनाच्या बाजूने निर्णय होण्याची शक्यता कमी आहे.”

13. As such, there is no denying that in majority of cases, the service of Work Charged Establishment was considered for computing 12 years of service and the benefit of TBP was granted. This being the position, apparently, the Respondents' approach is inconsistent rather discriminatory and indulging in policy of pick and choose, which is not at all permissible in law being violative of Article 14 of the Constitution of India, as already observed by this Tribunal while deciding O.As.

14. As stated above, at the cost of repetition, it is necessary to point out that sole ground of review is observation made in O.As No.900 and 901 of 2017 decided on 19.07.2019 wherein the authenticity of letters dated 18.03.1998 and 18.06.1998 were doubted. Indeed, these observations were made in view of earlier decisions in O.As No.617/2014 and 317/2014 decided on 02.12.2015 and 11.08.2017 respectively. Surprisingly, the Respondents are not coming with a specific case that no such letters dated 18.03.1998 and 18.06.1998 were ever issued by the Finance Department. All that, the Respondents tried to contend that the authenticity and issuance of letters dated 18.03.1998 and

18.06.1998 were doubted by the Tribunal in earlier matters which can be hardly a ground for review of decision rendered by the Tribunal. Indeed, if no such letters were really issued, then the Respondents ought to have taken specific stand that the letters dated 18.03.1998 and 18.06.1998 are forged. However, no such specific plea is raised. In earlier O.A, the authenticity of letters dated 18.03.1998 and 18.06.1998 were doubted only on the submission made by the Respondents that record to that effect was not available.

15. Apart, the decision rendered in O.As No.900 and 901 of 2017 and even earlier decisions rendered in O.As No.617/2014 and 317/2014 wherein in the knowledge of the Respondents. Despite this position, they have not raised such plea of authenticity of letters dated 18.03.1998 and 18.06.1998 while deciding the present O.As by this Tribunal wherein these R.As are filed. Suffice to say, it is not a case that original Respondents had discovered some new evidence which they could not collect despite due diligence as contemplated under Order 47 Rule 1 of CPC, and therefore, such ground now taken is beyond the scope of review.

16. As such, there is no apparent error on the face of record so as to invoke powers of review. Needless to mention that there is clear distinction between erroneous decision and error apparent on the face of record. The erroneous decision can be corrected only by higher forum in appeal or in Writ jurisdiction. Thus, once issued is adjudicated on merit, the decision cannot be reviewed on the ground that earlier there was some contrary decisions on the matter in issue. These contrary decisions can be considered in appellate jurisdiction only and not in revisional jurisdiction.

17. At this juncture, it would be apposite to refer the decision of Hon'ble Supreme Court ***Parsion Devi & Ors. Vs. Sumitri Devi & Ors. (1997) 8 SCC 715***, wherein it has been held that if an error is not self-

evident and detection thereof requires longer debate and process of reasoning, it cannot be treated as error apparent on the face of record for the purpose of Order 47 under Rule 1 of CPC. In other words, the order or decision or Judgment cannot be corrected merely because its erroneous view in law or on the ground that the different view could have been taken on account of fact or law, as the Court could not sit in appeal over its own Judgment. Similar view was again reiterated by Hon'ble Supreme Court in **AIR 2000 SC 1650 (Lily Thomas Vs. Union of India)** where it has been held that the power of review can be exercised for correction of mistake only and not to substitute a view. Such powers can be exercised within limits of statute dealing with the exercise of power and review cannot be treated an appeal in disguise. The mere possibility of two views on the subject is not ground for review.

18. This Tribunal is also guided by the decision of Hon'ble Supreme Court in **Civil Appeal No.1694/2006 (State of West Bengal Vs. Kamal Sengupta & Anr.) decided on 16.06.2008** wherein the Hon'ble Supreme Court has laid down well settled principles in Para No.22 of the Judgment, which are as under :-

*“28. The principles which can be culled out from the above noted 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 of 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 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.”*

19. The principles culled out by Hon'ble Supreme Court in aforesaid decisions are squarely attracted to the present situation. I have, therefore, no hesitation to conclude that no case is made out to review the decision rendered by this Tribunal and Review Applications deserve to be dismissed. Hence, the pass the following order.

### **ORDER**

The Review Application No.21 of 2019, Review Application No.09 of 2020 and Review Application No.13 of 2020 are dismissed with no order as to costs.

Sd/-  
**(A.P. KURHEKAR)**  
**Member-J**

Mumbai  
Date : 08.02.2021  
Dictation taken by :  
S.K. Wamanse.

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