

(2026) 02 DEL CK 1766

In the Delhi High Court

Case No : Writ Petition (C) No.1028 Of 2022

Alapan Bandyopadhyay

APPELLANT

Vs

Union Of India And Anr

RESPONDENT

Date of Decision : 19-02-2026

Acts Referred:

Constitution of India, 1950 — Article 136
Code of Civil Procedure, 1908 — Section 24
Administrative Tribunals Act, 1985 — Section 19, 25
All India Services (Discipline and Appeal) Rules, 1969 — Rule 8
All India Services (Death-cum-Retirement Benefits) Rules, 1958 — Rule 6
Central Administrative Tribunal (Procedure) Rules, 1987 — Rule 6(1), 6(2)

Citation : (2026) 02 DEL CK 1766

Hon'ble Judges : C. Hari Shankar, J; Jyoti Singh, J

Bench : Division Bench

Advocate : A.K. Behera, Kunal Vajani, Kunal Mimani, Kartikey Bhatt, Prashant Alai, Vikramjeet Banerjee, Nidhi Raman, Akash Mishra, Arnav Mittal, Suraj, Kartik Dey, Mayank Sansanwal

Final Decision : Dismissed

Judgement

Jyoti Singh, J

REVIEW PET. 80/2022, CM APPLs. 19486/2022, 1219/2025, 54267/2025 & 54272/2025

1. This review petition is filed by the Petitioner seeking review and recall of judgment dated 07.03.2022.

2. To the extent necessary, the factual matrix is that Petitioner joined IAS in 1987 and was allocated the West Bengal Cadre. Petitioner superannuated on 31.05.2021, while working as Chief Secretary of the State of West Bengal. On 16.06.2021, a major penalty chargesheet was issued to the Petitioner by the Respondents under Rule 8 of the All India Services (Discipline and Appeal) Rules, 1969 read with Rule 6 of All India Services (Death-cum-Retirement Benefits)

Rules, 1958. Enquiry Officer was appointed to conduct the departmental enquiry and preliminary hearing was scheduled for 18.10.2021.

3. On receiving the hearing notice, Petitioner filed an application under Section 19 of Administrative Tribunals Act, 1985 ('1985 Act') being O.A.No. 1619/2021, challenging the chargesheet and consequential orders of appointing the Enquiry Officer etc., before the Kolkata Bench of the Tribunal. Respondents filed a Transfer Petition before the Principal Bench of the Tribunal under Section 25 of 1985 Act, seeking transfer of the O.A. to the Principal Bench. By order dated 22.10.2021, Tribunal allowed the Transfer Petition and directed listing of O.A. No. 1619/2021 for admission on 27.10.2021.

4. This order was challenged by the Petitioner before the Calcutta High Court in W.P.C.T. No. 78/2021. On 27.10.2021, Tribunal issued notice in the O.A., which was accepted by the Respondents and matter was adjourned to 12.11.2021. By judgment dated 29.10.2021, Calcutta High Court allowed the writ petition filed by the Petitioner and set aside the order of the Tribunal, transferring the O.A. Respondents herein challenged the judgment before the Supreme Court in SLP(C) 18338/2021, primarily on the ground that Calcutta High Court lacked territorial jurisdiction to entertain a challenge to the order passed by the Principal Bench at New Delhi. The SLP was allowed on 06.01.2022 and the judgment of Calcutta High Court was set aside on lack of territorial jurisdiction, with liberty to the Petitioner to assail the order of the Tribunal before the jurisdictional High Court and in this backdrop, Petitioner filed the writ petition in this Court, from which the present review petition emanates.

5. The writ petition was dismissed by this Court vide judgment dated 07.03.2022, finding no infirmity in the impugned order dated 22.10.2021 passed by the Tribunal transferring the O.A. from Kolkata Bench of the Tribunal. It was held that the impugned order was passed within the four corners of Section 25 of 1985 Act, which confers power on the Chairman of the Tribunal to transfer cases from one Bench to another. Court also found that due notice was given to the Petitioner and counsels representing him were duly heard before the transfer order was passed. Insofar as the arguments on merits of the chargesheet were concerned, Court did not adjudicate the issues as this was beyond the scope of the writ petition, which was concerned with a challenge to the transfer order. Petitioner now seeks review/recall of judgment dated 07.03.2022.

6. Mr. A.K. Behera, learned Senior Counsel for the Petitioner submitted that the judgment dated 07.03.2022 deserves to be reviewed on multiple grounds. It was urged that Petitioner was deprived of an effective opportunity of hearing as no pass over was granted to the junior counsel representing the Petitioner, which he sought since the Senior Advocates engaged by the Petitioner were not available on the first call. Throughout the history of litigation in the present case in all forums, Petitioner had been represented by Senior Counsels and therefore, as per the past practice of this Court, a pass over ought to have been granted by the Court. Moreover, the Court has not considered the submissions and

judgments referred to by the Petitioner in the written submissions filed in advance as also the supplementary written submissions filed after the judgment was reserved on 25.02.2022.

7. It was also argued that this Court overlooked the fact that the Tribunal passed the transfer order in violation of principles of natural justice, inasmuch as despite requests made on behalf of the Petitioner, no opportunity was granted to file objections/reply to the petition or produce judgments, thereby denying effective opportunity of hearing. In this context reliance was placed on the judgments of the Supreme Court in *Union of India v. Alapan Bandyopadhyay*, (2022) 3 SCC 133 and *State of Gujarat v. RS Yadav & Anr.*, 2002 SCC OnLine Del 198.

8. On merits, it was urged that the Court has erred in proceeding on the premise that power of the Chairman of the Tribunal under Section 25 of 1985 Act is purely an administrative power and separate from decision making power on the judicial side. Court has further erred in holding that

power under Section 25 is akin to power of 'Master of Roster' exercised by Chief Justice of India and Chief Justices of the High Courts and basis this erroneous premise, Court came to a wrong conclusion that judicial review of a decision taken under Section 25 is extremely limited and restricted to scrutinizing the decision making process and not the decision itself. In *Manju Varma (Dr.) v. State of UP and Others*, (2005) 1 SCC 73, the Supreme Court held that in ordering transfer of the case under the 1948 Amalgamation Order, the Chief Justice was acting as an adjudicating body empowered by the Constitution to discharge judicial functions and his order was therefore, amenable to correction under Article 136 of the Constitution of India. It was also held that power of transfer from one territorial jurisdiction is distinct from the power of the Chief Justice to frame a roster to determine the jurisdiction of judicial work in the High Court. In the supplementary written submissions, apart from this judgment Petitioner had specifically referred to the observations of the Supreme Court in *AIIMS v. Sanjiv Chaturvedi and Others* (2020) 17 SCC 602, wherein it was observed that even while exercising power under Section 25 of 1985 Act, the learned Chairman acts judicially.

9. To argue that the power of the Chairman under Section 25 is not administrative in nature, learned Senior Counsel also relied on the judgment of the Supreme Court in *Alapan Bandyopadhyay* (supra), wherein it was held that power of transfer from one Bench to another is an extraordinary power and must be exercised with great circumspection and sparingly. An order under Section 25 can only be passed after giving opportunity of hearing to the parties as also after hearing them and the power must be exercised in the interest of justice. These observations clearly connote that the decision taken under Section 25 is not merely administrative in nature and is instead a quasi-judicial order, which must satisfy the ingredients of a quasi-judicial order as laid down by the Supreme Court in *A.K. Kraipak and Others v. Union of India and Others*, (1969) 2 SCC 262. Therefore, the decision making process cannot be restricted treating the

order of the Tribunal as an administrative order.

10. It was further argued that in *Jitendra Singh v. Bhanu Kumari and Others*, (2009) 1 SCC 130, the Supreme Court while interpreting Section 24 CPC, which is *pari materia* to Section 25, held that power of transferring cases on applications made by parties is judicial in nature. However, none of these judgments were taken into consideration by the Court, while passing the judgment dated 07.03.2022 and this is a manifest error of law on the face of the judgment rendering the same liable to be reviewed/recalled. Reliance was placed on the judgment of Supreme Court in *Indian Charge Chrome Ltd. and Another v. Union of India and Others*, (2005) 4 SCC 67, where the Supreme Court held that where a contention is urged by a party but there is omission to consider the same, it amounts to a manifest error in the judgment, calling for a review.

11. It was further contended that Rule 6(1) of Central Administrative Tribunal (Procedure) Rules, 1987 ('1987 Rules') provides that an application shall ordinarily be filed by the applicant before a Bench of the Tribunal within whose jurisdiction the applicant is posted for the time being or where cause of action, wholly or in part has arisen. Rule 6(2), however, provides an exception and gives right to a person, who has ceased to be in service by way of retirement, dismissal or termination to file an application before a Bench within whose jurisdiction such person ordinarily resides at the time of filing the application. This exception has been carved out for the convenience of applicants, who are no longer in service and the rule cannot be defeated or rendered redundant by transfer of the O.A. filed by the Petitioner before the Kolkata Bench since he was a permanent resident of Kolkata and had retired when he filed the O.A. The impugned order passed by the Tribunal and erroneously upheld by this Court, infringes on a valuable right available to the Petitioner under Rule 6(2) of 1987 Rules.

12. Mr. Vikramjeet Banerjee, learned ASG appearing on behalf of the Respondents opposed the review petition, both on maintainability and on merits. It was urged that no ground has been raised in the petition calling for review of the order within the limited parameters on which review can be sought. The attempt is to re-argue the matter in the garb of the review petition. Review jurisdiction is extremely limited and unless an error apparent is shown on the face of the record, the judgment or order cannot be recalled. In *N. Anantha Reddy v. Anshu Kathuria and Others*, (2013) 15 SCC 534, the Supreme Court observed that no review can lie unless there is mistake apparent on the face of the record and mistake apparent would mean that the mistake is self-evident, needing no search or re-hearing. It was argued that in the present case, there is no error apparent on the face of the judgment warranting a review. The matter was argued by Petitioner's counsel vehemently and at length and multiple written submissions were also filed. All relevant points were considered before a view was taken by the Court and it is settled that if the view adopted by the Court is a possible view, a review cannot be sought on the ground that another view was

possible.

13. The ground that no pass over was granted by the Court for the Senior Counsels engaged by the Petitioner to appear and argue the matter is not a ground calling for review in law. Nothing prevented the Petitioner from being represented by the Senior Counsel and there is no rule, which mandates any Court to give a pass over as a matter of right. On a number of occasions, Courts have denied pass overs for one reason or the other, wherever pass over is not possible, as in the decisions in *Hemant Jain v. Sidharth Jaju & Ors.*, 2017 SCC OnLine Del 10898 and *Mohan Singh Market & Ors. v. Union of India & Ors.*, 2015 SCC OnLine Del 13549.

14. Insofar as the argument that opportunity of filing objections/reply to the petition was not granted, it was rightly held by this Court in the judgment under review that perusal of the impugned order reflected that Petitioner was duly represented by a team of counsels including a Senior Counsel, who was given an opportunity to argue the matter and that Section 25 of 1985 Act does not mandate filing of a formal written reply but only requires notice to the parties and opportunity of hearing and no infirmity can be found with this observation calling for a review.

15. The main plank of the argument of the Petitioner in the review petition is that power under Section 25 of 1985 Act is not administrative in nature but is a decision making power on the judicial side. This is contrary to the well settled law that power under Section 25 is administrative in nature and this position is affirmed by the Supreme Court in the decision in *Sanjiv Chaturvedi (supra)*, which was taken into consideration by the Court in the judgment dated 07.03.2022.

16. We have heard learned Senior Counsel for the Review Petitioner and learned ASG for the Respondents and examined their rival submissions.

17. Before proceeding further, it is important to delve on the scope of jurisdiction in a review petition. It is settled that review proceedings are not by way of an appeal and review is warranted only if there is an error apparent on the face of the record. In the garb of review petition, a party cannot be permitted to reargue the matter. In *N. Anantha Reddy (supra)*, the Supreme Court held that the review jurisdiction is extremely limited and unless there is a mistake apparent on the face of the record, the judgment does not call for review and surely review jurisdiction is not an appeal in disguise. In *M/s. Northern India Caterers (India) Ltd. v. Lt. Governor of Delhi*, (1980) 2 SCC 167, the Supreme Court held that a party is not entitled to seek a review of a judgment merely for the purpose of rehearing and a fresh decision of the case. A review proceeding cannot be equated with the original hearing of the case and finality of the judgment delivered by the Court will not be reconsidered except where a glaring omission or patent mistake or grave error has crept in by judicial fallibility. It was reiterated that an error apparent exists if of two or more views canvassed on the

point, it is possible to hold that the controversy can be said to admit of only one of them but where the view adopted by the Court in the original judgment is a possible view having regard to what the record states, it is difficult to hold that there is an error apparent on the face of the record.

18. Significantly, in *S. Bagirathi Ammal v. Palani Roman Catholic Mission*, (2009) 10 SCC 464, the Supreme Court observed that an error apparent is not one, which has to be fished out and searched and must be an error of inadvertence. If the error is so apparent that without further investigation or enquiry, only one conclusion can be drawn in favour of the application, review will lie but in the guise of review, parties are not entitled to re-hearing.

19. With this backdrop on the scope and ambit of review jurisdiction, we may examine the grounds raised in the review petition by the Petitioner. The ground that no pass over was granted cannot be a ground for review of the judgement. It is not a matter of right to seek a pass over and moreover, counsel for the Petitioner was heard at length, which is evident from a bare reading of the judgement.

20. The argument that this Court had failed to appreciate that the Tribunal did not give opportunity to file objections/reply to the petition, depriving the Petitioner of effective opportunity to contest, is misconceived. Court took note of the fact that Petitioner was duly represented by a team of counsels including a Senior Counsel, who argued vociferously before the Tribunal, as recorded in the order of the Tribunal. Court also reflected on the language of Section 25 of 1985 Act, which does not require giving chance to the parties to file a formal written reply and the only requirement is of a notice to the parties and a hearing, which was done. There is thus no error apparent, calling for review on this aspect.

21. The argument that Court erred in holding that power of the Chairman under Section 25 is an administrative power and this amounts to error apparent on the face of the record warranting review of the judgment, is equally misconceived. In the original judgment, Court considered the plain language of Section 25 and relying on the judgment of the Supreme Court in *Sanjiv Chaturvedi* (supra), concluded that the power of the Chairman of the Tribunal is administrative in nature. In the said judgment, the Supreme Court after examining Section 25 held in no uncertain terms that power under the said Section to transfer cases from one Bench to another is essentially an administrative power of the Chairman of the Tribunal and such power is to be exercised on his own motion or on an application of any of the parties after notice to the parties and after hearing such of them as may desire to be heard. It was also held that the Chairman may, on his own motion, transfer any case pending before one Bench to another without notice. Since a question involved in the case was whether the Chairman exercising power under Section 25 to transfer proceedings from one Bench to another, could have stayed proceeding before a two-Member Bench, while sitting singly, it was held that the Chairman has no power to grant interim stay of proceedings as such a power was conferred on the Tribunal under Section

24 and that the Chairman exercising power under Section 25 does not function as the Tribunal. In light of this judgment, it is not open to the Petitioner to contend that powers of the Chairman under Section 25 are not administrative in nature and seek a re-hearing on this ground in the garb of a review petition. The judgment in Manju Varma (supra) relied upon by the Petitioner is of no avail as the said case was not concerned with Section 25 of 1985 Act but paragraph 14 of United Provinces High Courts (Amalgamation) Order, 1948 and it was in that context that Supreme Court held that the Chief Justice was acting as a judicial authority with all attributes of a Court and his order was amenable to correction under Article 136. Thus, this judgment has no relevance to the issue involved in the present case and on the other hand the judgement in Sanjiv Chaturvedi (supra), applies squarely as it deals with powers of the Chairman of the Tribunal under Section 25 of 1985 Act, which was the issue raised in the writ petition from which the present review petition emanates.

22. The judgement in Alapan Bandyopadhyay (Supra), on which heavy reliance is placed by the Petitioner, does not aid the Petitioner. The legal conundrum arising in the said case was the jurisdiction of Calcutta High Court to entertain a challenge to order of Principal Bench of the Tribunal at Delhi and this is captured in paragraph 1 of the judgment, which is extracted hereunder for ready reference:-

"Whether the bundle of facts that constitute the cause of action for filing an original application under Section 19 of the Administrative Tribunals Act, 1985 (for short "the Act") and determinative of the place of its filing would remain as the decisive factor in case such an application is subsequently transferred from the Bench where it was filed to another Bench of the Tribunal falling under the territorial jurisdiction of another High Court, to ascertain the jurisdictional High Court to exercise the power of judicial review qua the order of transfer passed by the Chairman of the Central Administrative Tribunal at New Delhi in exercise of power under Section 25 of the Act."

23. The Appellant therein/Union of India assailed the judgment dated 29.10.2021 passed by Calcutta High Court in the case of the Petitioner herein, whereby the High Court had set aside the order dated 22.10.2021 passed by the Tribunal in Transfer Petition transferring O.A. No. 1619/2021 filed by the Petitioner. In paragraph 5 of the judgment, the Supreme Court observed that the Court was confining the consideration to the question as to which was the jurisdictional High Court having power of judicial review and the question was finally answered by placing reliance on the judgment of the Constitution Bench of the Supreme Court in L. Chandra Kumar v. Union of India and Others, (1997) 3 SCC 261, holding that once the order impugned in the writ petition was passed by Principal Bench of the Central Administrative Tribunal at New Delhi, only the Delhi High Court will have territorial jurisdiction to entertain the petition challenging the order and that the Calcutta High Court had wrongly usurped the jurisdiction and entertained the petition. Therefore, this judgment cannot apply to the

controversy raised in the petition before this Court.

24. In so far as the judgment of the Supreme Court in *Indian Charge Chrome* (supra) is concerned, there can be no quarrel with the legal proposition that non-consideration of a relevant contention is an error apparent. However, in the instant case, all contentions raised by the Petitioner have been dealt with. As noticed above, the judgement in *Manju Varma* (supra), did not apply even remotely to the controversy in question in the writ petition and in so far as the judgement in *Alapan Bandyopadhyay* (supra), is concerned, the Supreme Court was dealing with the issue of territorial jurisdiction of the High Court to entertain a challenge to the orders/judgements of the Central Administrative Tribunal. The judgment in *Jitendra Singh* (supra), does not deal with the powers of the Chairman under Section 25 of the 1985 Act and is hence inapplicable to this case.

25. Insofar as the contention that Petitioner has a vested and a statutory right to file an O.A. at the place of his residence by virtue of Rule 6(2) of 1987 Rules, being a retired person and this right cannot be taken away by exercising power under Section 25 of 1985 Act is concerned, this Court has taken a view in the original judgment that if this proposition is accepted Section 25, which gives power to the Chairman to transfer matters will be rendered redundant and subservient to Rule 6(2), which was not the intent of the legislature while enacting Section 25. Section 25 by its plain reading bestows administrative power to the Chairman and is neither regulated nor controlled by any rule. Nothing has been shown by the Petitioner even today, which warrants a different interpretation or view, calling for a review of the judgement.

26. Accordingly, this Court finds no ground to review the judgment dated 07.03.2022 and the review petition is dismissed, being devoid of merit.

27. Pending applications also stand disposed of.