

“The contention of the Review Applicant is that in view of the remarks, the Applicant has four ‘Very Good’ and, therefore, he should be promoted because he meets the benchmark.

2. The Review Application has a very narrow compass and is allowed only if there is an error apparent on the face of the record or if some new fact is discovered after due diligence, which is not available at the time when the case was argued. The Tribunal cannot consider fresh grounds and fresh arguments in review. It has been laid down by the Honourable Apex Court in Ajit Kumar Rath Vs. State of Orissa and others, (1999) SCC 596 that :

3. “A review cannot be claimed or asked for merely for a fresh hearing or arguments or correction of an erroneous view taken earlier, that is to say, the power of review can be exercised only for correction of a patent error of law or fact which stares in the face without any elaborate argument being needed for establishing it”,

4. The Tribunal cannot review its order unless the error is plain and apparent. The Honourable Supreme Court has further held in the aforesaid case that “Any other attempt, except an attempt to correct an apparent error or an attempt not based on any ground set out in Order 47, would amount to an abuse of the liberty given to the Tribunal under the Act to review its judgment”.

5. Before parting with this order, it may also be stated that the Tribunal cannot direct the Applicant to be promoted on the basis that four out of five ACRs are ‘Very Good and meet the prescribed benchmark. This decision has to be taken only by the DPC, as has been held in a catena of judgments of the Honourable Supreme Court. It may also be mentioned that the DPC is not bound by the grading given by the Reporting/Reviewing Officer”.