

**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI**

**R.A.NO.235/2003, M.A.NO.1724/2003, M.A.NO.1725/2003
IN O.A.NO.1595/2002**

Thrusday, this the 4th day of December, 2003

**Hon'ble Smt. Lakshmi Swaminathan, Vice Chairman (J)
Hon'ble Shri S. K. Naik, Member (A)**

1. Union of India through its Secretary
Ministry of Information & Broadcasting
Shastri Bhawan, New Delhi
 2. The Director General
All India Radio
Akashwani Bhawan
Parliament Street, New Delhi
 3. The Chief Engineer
CCW, All India Radio
Soochna Bhawan, CGO Complex
Lodhi Road, New Delhi
- ...Review applicants
- (By Advocate: Shri S.M.Arif)

Versus

Shri Lalit Kumar
son of Late Shri Kishori Lal Gupta
resident of A-4/230, Paschim Vihar
New Delhi-31

...Respondent

(By Advocate: Shri S.C.Saxena)

O R D E R (ORAL)

Hon'ble Smt. Lakshmi Swaminathan, VC (J):

We have heard Shri S.M.Arif, learned counsel for review applicants in RA-235/2003. They have also filed MA-1724/2003 praying for condonation of delay in filing the Review Application which, they have stated, was not intentional and deliberate but due to administrative exigencies. Another MA (MA-1725/2003) has been filed by the review applicants to stay the operation of Tribunal's order dated 27.3.2003 on which the Review Application has been filed. As we have heard Shri S.M.Arif, learned counsel for review applicants and Shri S.C.Saxena, learned counsel for respondent (original applicant) in some detail on merits, we consider that MA-1724/2003

praying for condonation of delay should be allowed in the interest of justice. *We do so.*

2. Shri S.M.Arif, learned counsel has submitted that error has crept ~~in~~ into the Tribunal's order dated 27.3.2003. He has submitted that the (original) applicant was promoted as Assistant Engineer in 1981 without holding any further DPC, i.e., on the basis of the DPC held in 1980, when there was no CBI inquiry pending against him. He has, therefore, contended that the reasoning of the Tribunal based on the "defect in the language" used in the respondents' own letter is contrary to the submissions made on behalf of the respondents (review applicants). Therefore, he has contended that the direction of the Tribunal to respondent No.1 to hold a review DPC to consider applicant's (original applicants) claim for promotion, keeping in view the aforesaid observations, including respondents' own submission that there was no CBI case pending against him at the relevant time, is erroneous and unnecessary.

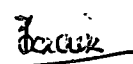
3. The above submission of the learned counsel for review applicants has been controverted by Shri S.C. Saxena, learned counsel for original applicant. He has submitted that the review applicants are merely trying to re-argue the whole case which they cannot do in a Review Application and there is no error apparent on the face of the record.

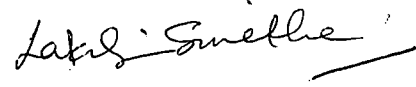
4. We have carefully considered the submissions of the learned counsel for the parties. It is relevant to note that the order of the Tribunal dated 27.3.2003 is an

oral order passed after hearing the learned counsel for parties and in their presence. The reasons given in the judgment are set out therein, including the repeated submissions on behalf of the official respondents about "defect in the language" used by them in their official correspondence to the applicant. In this regard, the reasons given, particularly in paragraphs 2 - 7, are relevant for the conclusion arrived at by the Tribunal in the order dated 27.3.2003. In the circumstances of the case, we agree with the submissions made by Shri S.C.Saxena, learned counsel that in the Review Application, the review applicants are trying to re-argue the whole case as if it^{is} an appeal which, under the settled law, they cannot do.

5. The Hon'ble Supreme Court has, in a catena of judgments (Aribam Tuleshwar Sharma v. Aribam Pishak Sharma, AIR 1979 SC 1047, S. Nagaraj & others v. State of Karnataka, JT (1993) (5) SC 27 and Meera Bhanja v. Nirmala Kumari Choudhury, AIR 1995 SC 455) held that the Review Application cannot be used as an appeal in disguise to re-argue the same points and issues which were taken in the Original Application. If the review applicants feel that the order of the Tribunal dated 27.3.2003 is erroneous, the remedy lies elsewhere. In this view of the matter, RA-235/2003 is rejected.

6. Accordingly, MA-1725/2003 is also disposed of as infructuous.


(S. K. Naik)
Member (A)


(Smt. Lakshmi Swaminathan)
Vice Chairman (J)

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