

11

**CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH  
NEW DELHI**

R.A. NO.284/2004  
M.A. NO.2128/2004  
M.A. NO.2129/2004  
in  
O.A. NO.1173/2002

This the 22<sup>nd</sup> day of September, 2005.

**HON'BLE SHRI V. K. MAJOTRA, VICE-CHAIRMAN (A)**

**HON'BLE SHRI SHANKER RAJU, MEMBER (J)**

Brij Mohan Meena

... Applicant in OA/  
Review Respondent

( By Shri B.S.Mainee, Advocate )

Versus

Union of India & Ors.

... Respondents in OA/  
Review Applicants

( By Shri R.L.Dhawan, Advocate )

**ORDER (ORAL)**

**Hon'ble Shri V.K.Majotra, Vice-Chairman (A):**

By virtue of this application review has been sought of orders dated 30.6.2004 whereby OA No.1173/2002 was allowed.

2. Through MA No.2129/2004 condonation of delay in filing this review application has also been sought. In this connection it has been stated that the counsel took about eleven days time to forward the Tribunal's orders to respondents. Thereafter respondents at different levels took time in processing the Tribunal's orders and taking a decision for filing review. The counsel had unnecessarily taken time from 27.7.2004 to 6.8.2004 in forwarding the Tribunal's orders to respondents. However, in the interest of justice, the MA is allowed and delay in filing the review application is condoned.

3. The learned counsel of review applicants has raised the following contentions while seeking review of Tribunal's orders:

*h*

- (1) Applicant in the OA had not made persons who were to be affected by the outcome of the positive decision in the OA as parties. Such persons whose rights are liable to be affected not having been made necessary party, the OA was not maintainable.
- (2) Tribunal has erred in holding that the figure '7' mentioned in circular dated 16.10.1994 (Annexure A-10 in the OA) has to be read from the date of the original circular dated 3.8.1993 (Annexure A-9 in the OA) in which the figure '4' was mentioned. Tribunal's conclusion that change of figure from '4' to '7' is merely clarificatory in nature is wrong. It was an amendment and not a clarification. The learned counsel referred to JT 1996 (4) SC 547 [*State Bank of India Scheduled Caste/Tribe Employees Welfare Association & Anr. v State Bank of India & Ors.*] in which provision in the circulars as regards carrying forward of reserved vacancies for three years at the end of which they elapse and the provision that not more than 50% of the available vacancies should be reserved, was upheld. It was held that subsequent relaxation in service norms cannot be applied retrospectively.
- (3) In line 5 of paragraph 2 of the Tribunal's orders, the correct year '1993' should be substituted for the year '1983' as mentioned therein.

4. On the other hand, the learned counsel of respondent herein stated in regard to non-impleadment of persons who were to be affected by the positive outcome of the OA that no such ground had been taken by review applicants in the OA. In any case, the review applicants cannot plead the cause of persons who were not parties in the OA.

5. As regards provision in Annexure A-10 having been taken as a clarification instead of an amendment by the Tribunal, the learned counsel maintained that the Tribunal had formulated its conclusion on hearing the



arguments of both sides. The argument of respondents/review applicants in the OA had been rejected by the Tribunal. Even if the Tribunal's view may be erroneous, by itself it cannot afford a ground for review.


6. Substitution of the year '1993' in place of the year '1983' in line 5 of paragraph 2 of the Tribunal's orders was not opposed.

7. We have considered the respective contentions of the learned counsel of both sides as also carefully gone through the records.

8. It is found that respondents in the OA and review applicants in the present application had not taken the ground that a positive decision in the OA would affect certain persons who should be impleaded as necessary parties. We are also in agreement with the learned counsel of review respondent that the review applicants cannot represent persons who were not impleaded in the OA. As such, the contention of the review applicants that certain persons had not been impleaded in the OA is rejected.


9. Substitution of the figure '4' by '7' and its effective date had been stated by the Tribunal in the orders in question after considering in detail the arguments of both sides. The contention raised here on behalf of the review applicants in this behalf was raised even in the OA. Reliance on *SBI Scheduled Caste/Tribe Association* (supra) was not placed at the time of arguments in the OA. It is certainly an afterthought. Despite full opportunity to respondents in the OA if they had not cited any judgments at the time of arguments, referring to them in a review is nothing but an attempt to re-argue, which is beyond the scope and ambit of a review. It is possible that our conclusion may be erroneous but the trite law is that such a view by itself cannot afford a ground for review.

10. From the above discussion, it is out considered view that through this application an attempt has been made to argue the matter afresh, which is impermissible in review. As such, this review application is dismissed.

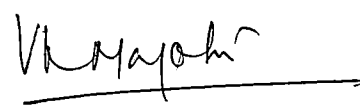


11. However, we discover from records that a typographical error has lurked in in the fifth line of paragraph 2 of the Tribunal's orders inasmuch as that the figure '1983' has been recorded instead of '1993'. It is directed that the figure '1993' be substituted in place of the figure '1983'. In this behalf a corrigendum be issued.

12. MA No.2128/2004 has become infructuous with efflux of time. It stands disposed of as such.

  
(Shanker Raju)  
Member (J)

/as/

  
(V. K. Majotra)  
Vice-Chairman (A)  
22/9/05