

CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH, CUTTACK

R.A.No.260/11/2018

(Arising out of order dated 12.02.2017 in O.A.No.260/00070 of 2013)

Date of Reserve:25.11.2019

Date of Order:29.11.2019

CORAM:

HON'BLE MR.GOKUL CHANDRA PATI, MEMBER(A)
HON'BLE MR.SWARUP KUMAR MISHRA, MEMBER(J)

Tanushree Rakshit, aged about 28 years, D/o. Late Anshuman Rakshit, At-Barbati, PS-Motiganja, Dist-Balasore.

...Applicant

By the Advocate(s)-Mr.B.P.Satpathy

-VERSUS-

Union of India represented through:

1. The General Manager, East Coast Railway, E.Co.R.Sadan, 2nd Floor, South Block, Rail Sadan, Samanta Vihar, PO/PS-Mancheswar, Bhubaneswar, Dist-Khurda.
2. Chief Personnel Officer, East Coast Railway, E.Co.R.Sadan, 2nd Floor, South Block, Rail Sadan, Samanta Vihar, PO/PS-Mancheswar, Bhubaneswar, Dist-Khurda.
3. Deputy Chief Personnel Officer, Recruitment, , East Coast Railway, E.Co.R.Sadan, 2nd Floor, South Block, Rail Sadan, Samanta Vihar, PO/PS-Mancheswar, Bhubaneswar, Dist-Khurda.
4. Director, Prasara Bharati (B.C.I.), Doordarshan Kendra, Bhubaneswar, Dist-Khurda, Odisha.

...Respondents

By the Advocate(s)-Mr.S.Barik
Mr.D.K.Mallick

ORDER

PER SWARUP KUMAR MISHRA, MEMBER(J):

Applicant in O.A.No.260/00070/2013 has filed the present Review Application seeking review of the order dated 12.01.2017 passed by this Tribunal in the said O.A. In the O.A., the applicant had sought for the following reliefs:

- i) To quash the order of rejection dated 15.02.2013 under Annexure-7 of the O.A.
- ii) To direct the respondents to declare the applicant eligible for the post of Modern Dance Performer and select her for the said post.

2. Brief background based on which the applicant had approached this Tribunal in the O.A. was that in pursuance of an advertisement dated 28.7.2012 inviting applications from the eligible candidates for the post of Modern Dance Performer, the applicant had submitted

her application. However, in course of time, she could come to know from the internet that she has been shown in the list of ineligible candidates. Being aggrieved, she submitted a representation dated 5.2.20123 to the General Manager, East Coast Railways, which was disposed of by an order dated 15.2.2013 rejecting her prayer to declare her eligible for the purpose of appearing in the written test that was scheduled to be conducted on 16.2.2013, inter alia, on the ground that the applicant had not enclosed the Certificate of Diploma in Dance, besides, she had not disclosed the details of her cultural qualification in Item No.17 of her application.

This Tribunal, vide order dated 12.01.2017 dismissed the said O.A. as follows:

- "10. We have gone through the impugned order dated 15.2.2013 and found that cogent reasons have been assigned for rejection of the case of the applicant. The finding of the respondents is that applicant failed to attach the certificate of degree/diploma signifying essential qualification and also to make appropriate entries in the application. There is little scope for subjective interpretation. After going through the records, and hearing the learned counsels for both parties, we do not find any facts that would render the impugned order unsustainable. In fact, the allegations about enclosing a manipulated application form to the O.A. filed before this Tribunal, casts a long shadow over the case made out by the applicant. We do not find any reason to interfere with the decision taken by the respondent-authorities.
11. In the result, the O.A. being devoid of merit is dismissed with no order as to costs".

3. In the instant R.A., the applicant has urged a number of grounds stating that the orders of this Tribunal dated 12.01.2017 as illegal, perverse and bad in the eye of law, inasmuch as this Tribunal without appreciating the materials on record and the grounds of challenge dismissed the O.A. According to applicant, she has possessed the requisite qualification from Akhila Bharatiya Gandharba Mahavidyalaya Mandal, Mumbai in the Examination held in 2003 and she had, including the other documents, submitted the said certificate with her application. However, as she did not mention the same in the required Column No.17, her application was rejected. This fact the Tribunal failed to appreciate while dismissing the O.A.

4. On being noticed, Respondent Nos. 1 to 3 and Respondent No.4 have filed their respective reply, to which, applicant has also filed a rejoinder.

5. We have heard the learned counsels for the parties and perused the records. It is not a case where after due diligence, the applicant could not be able to produce any such credible document, which has subsequently been unearthed and had this document been submitted when the O.A. was heard and decided on merit, this Tribunal would have arrived at a different conclusion than what has been arrived at vide order dated 12.01.2017, which has been sought to be reviewed. It appears that although the applicant in the R.A. has urged a number of grounds, but, those were within the scope and ambit of O.A. and had been dealt and discussed vide order dated 12.01.2017. Thus, by virtue of this R.A., the applicant wants this Tribunal to reopen and re-adjudicate the O.A. on merit. In this connection, we would like to note that the scope of review is very limited as per the settled principle of law enunciated by the Hon'ble Apex Court from time to time.

6. In **M/s.Thungabhadra Industries Ltd. Vs. The Government of Andhra Pradesh** [AIR 1964 SC 1372], the Hon'ble Supreme Court has held that -

“A review is by no means an appeal in disguise whereby an erroneous decision is reheard and corrected, but lies only for patent error. We do not consider that this furnishes a suitable occasion for dealing with this difference exhaustively or in any great detail, but it would suffice for us to say that where without any elaborate argument one could point to the error and say here is a substantial point of law which stares one in the face, and there could reasonably be no two opinions entertained about it, a clear case of error apparent on the face of the record would be made out.”

7. Similarly, it has been held by the Hon'ble Apex Court in **Chandra Kanta and another Vs. Sheikh Habib [AIR 1975 SC 1500]** that –

“A review of a judgment is a serious step and reluctant resort to it is proper only where a glaring omission or patent mistake or like grave error has crept in earlier by judicial fallibility. A mere repetition through different counsel of old and overruled arguments, a second trip over ineffectually covered ground or minor mistakes of inconsequential import are obvious insufficient.”

8. Further in **Meera BhanjaVs. Smt.NirmalaKumariChoudhury [AIR 1995 SC 455]**, the Hon'ble Supreme Court has held as under:-

"Error apparent on face of record, means an error which strikes one on mere looking at record and would not require any long drawn process of reasoning on points where there may conceivably be two opinions."

9. At this stage, we would like to quote hereunder the relevant discussions held by this Tribunal under Paragraph-6 of the order dated 12.01.2017, which is sought to be reviewed.

"...The applicant's case is that she has produced the certificate obtained from ABGMM, Mumbai, and that it is a Government recognized Institution. However, inadvertently she did not mention this in the prescribed columns of the application form. Even though the learned counsel for the applicant asserted that this is a Government recognized institution, he could not produce any paper to support his claim. Nor did we find any document in the record to prove that this is a Government recognized Institute. On the other hand, the respondent-Railways have asserted that the applicant did not enclose copy of the certificate to the application form. The more serious allegation levelled against the applicant is that she has attached a bogus and manipulated application form as Annex.a/2 to the application form. The respondents have enclosed the copy of the original application form actually submitted as Annex.R/2 to the counter affidavit. On comparison of the documents, we find that in the Annex.a/2, three entries have been made which were not there in the document at Annex.R/2. If these additional three entries have been made by the applicant and a manipulated copy has been attached to the O.A. as Annex.A/2, then that certainly is a very grave charge that puts the bona fide of the applicant in question. We do not find any effective response from the applicant to this serious charge, which makes the matters worse. The applicant's submission that certificate of ABGMM Mumbai was enclosed to the application, but columns in the form where inadvertently left blank does not appear to be a credible defence of her case. The respondents have categorically averred that neither any degree/diploma/certificate was enclosed, nor was any mention made in the prescribed columns. On examination of the documents, we are not inclined to rely much on the version of the applicant".

10. For the reasons aforesaid, there is no ground to review order dated 12.01.2017 passed by this Tribunal in O.A.No.260/00070/2013. In view of this, the R.A. is held to be without any merit and the same is dismissed. No costs.

(SWARUP KUMAR MISHRA)
MEMBER(J)

(GOKUL CHANDRA PATI)
MEMBER(A)

