



**CENTRAL ADMINISTRATIVE TRIBUNAL
KOLKATA BENCH**

M.A. 351/837/AN/2019
R.A. 351/25/AN/2019
No. O.A. 10/AN/2016

Date of order: 02/12/2019

Present: HON'BLE MS. BIDISHA BANERJEE, MEMBEER (J)
HON'BLE N. NEHSIAL, MEMBER (A)

Shri N. Venugopal
S/o Shri R. Narasimhan
R/o Junglighat, Port Blair
South Andaman District, Pin - 744103.



...Applicant

Advocate for the Applicant : B. Samanta

-Versus-

1. The Union of India, service through Secretary
Transport Bhawan, Sansad Marg
New Delhi - 110001.
2. The Lt. Governor
Andaman & Nicobar Islands
Raj Nivas, Port Blair
South Andaman District - 744102.
3. The Administration
Andaman and Nicobar Islands
Through the Chief Secretary
Secretariat, Port Blair, Pin - 744102.
4. The Chief Port Administrator
Port Management Board
Andaman & Nicobar Islands, Port Blair
Pin - 744106.
5. The Assistant Director
Port Management Board
A & N Islands, Port Blair, Pin - 744106.

... Respondents

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ORDER (IN CIRCULATION)

N. NEHSIAL, MEMBER (A):

M.A. No. 351/837/AN/2019 filed for condonation of delay in filing the R.A. No. 351/00025/AN/2019 has been examined, considered and condoned.



2. This R.A. No. 351/00025/AN/2019 has been filed by the applicant to review the adjudication done by this Bench vide order dated 12.06.2019 in O.A. No. 351/10/AN/2016 wherein the O.A. has been dismissed with the following observations:

"7. We found that these temporary assignments of additional duties do not give right to claim the pay scales of the post for which temporary additional assignments are given. The scale of particular post can be only claimed on the basis of recruitment to that post either by, direct recruitment promotion or deputation as per recruitment rules. Remuneration for additional duties can be claimed in the form of special pay or allowance if the rules provides for it. Moreover, the applicant does not possess even the required qualification for claiming the post of Chief Engineer and does not cite any specific order. A copy of legal judgment dated 06.03.1998 passed in Civil Appeal Nos. 1568-1569 of 1998 (@ SLP (C) Nos. 11839-11840 of 1997) made available on 04.06.2019 is not exactly similar to his case and found not applicable.

8. Keeping in view of the above, we feel that claim of the applicant for 'equal pay for equal work' in the present context of his occasional temporary assignment is not maintainable as

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per law. Hence the prayer of the applicant is found devoid of merit."

3. In this R.A., the applicant has asked for the review of the above order on the ground that, through RTI application, he came to know that the respondent department diluted the qualification of Recruitment Rule to the post of Chief Engineer without any sanction of law and recruited persons having lesser qualification as that of your applicant. Such information and the connected relevant documents as obtained under RTI subsequent to the disposal of the OA were in the possession of the respondent authorities but withheld from the eyes of this Tribunal which, however, are necessary and proper for appropriate adjudication of the case. Accordingly, the applicant asked for review of adjudication on the following grounds:-



1. That there is error apparent on the face of the records in the order dated 12.06.2019 under review in that the same did not consider that the department inspite of having the knowledge of the higher qualification did not give higher promotion to the applicant to the post of Chief Engine Driver though there was vacancy and also that though the applicant was made to work as Chief Engineer for more than 19 years but had not been given the pay of the post of Chief Engineer, thus depriving him of both promotional benefits as well as pay as granted to others similarly circumstances who had also discharged duties as such.

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- II. That a mere perusal of the order dated 12.06.2019 of this Learned Tribunal dismissing the OA would go to show that the prayers set out therein reflect the prayers of the unamended OA, and furthermore the relevant materials on record do not find place therein, and hence the order under review has error apparent on the face of the records for which the same is liable to be reviewed.
- III. That a review of the said decision of the Learned Tribunal is necessary in the interest of justice and the Learned Tribunal vested with powers akin to a writ court under Article 226 of the Constitution of India has inherent power to review its order to correct an apparent error without being inhibited by any strict rules of procedure."



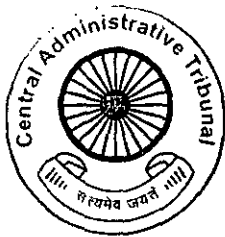
4. However, this Bench is not in a position to examine the present R.A. on merit and review their previous orders due to the fact that this particular document dated 09th August 2019 and other attached copies of documents/orders under No. 3360/RTI/CC/PMB/2019 (RA2, page 16 to the R.A.), as claimed by the applicant, was not part of the O.A. No. 351/10/AN/2016. The respondent authorities, obviously do not have the opportunity; as of now, to respond to this particular document dated 09th August 2019 on the basis of which the applicant is seeking review of the adjudication already done in O.A. No. 351/10/AN/2016 dated 12.06.2019.

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5. Keeping in view of the above, the R.A. is found not maintainable and accordingly, the same is hereby dismissed.

6. However, the applicant is at liberty to approach the Tribunal with a fresh O.A., if he desires.

7. No order as to costs.



(N. Neihisial)
Member (A)

(Bidisha Banerjee)
Member (J)

PB