

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH NEW DELHI

R.A. NO. 9/2002 in OA 2164/2001

New Delhi, this the 30th day of January 2002

Hon'ble Smt. Lakshmi Swaminathan, VC(J)
Hon'ble Shri Govindan S. Tampi, Member (A)

Vishwanath SharmaApplicant

(By Ms. Arti Mahajan Advocate)

VERSUS

Union of IndiaRespondent.

O R D E R (IN CIRCULATION)

Hon'ble Shri Govindan S. Tampi, Member (A)

R.A. No. 9/2002 alongwith M.A. No. 66/2002 has been filed by the applicant, seeking review of the Tribunal's order dated 4.10.2001, dismissing OA No.2164/2001.

2. In view of the circumstances, explained in M.A. 66/2001, request for condonation ^{of delay} accepted.

3. We have carefully considered the matter. O.A. No. 2164/2001 had been dismissed by us on 4.10.2001, with the following observations:

" We have carefully considered the matter and perused the documents on record. While we observe that learned counsel has very ably canvassed the case of the applicant, regrettably we find no merit in it. The applicant has joined Rajya Sabha Secretariat on co-terminus basis and thereafter was transferred to Vice President establishment and thereafter in President Secretariat's , where he has been regularised as LDC and was also made a Stenographer 'D'. The applicant, however, does not have any testimonial to show that he was qualified to become a PA and the certificate of Hindi Typewriting and Hindi Stenography test, conducted by the Hindi Teaching Scheme are no qualification for better of elevation as Personal Assistant as duly clarified by the Department of Official Language, the nodal authority in the matter. The clarification dated 2.7.2001 reads as follows:

(9)
 "हिंदी शिक्षण योजना द्वारा संचालित हिंदी आशुलिपि परीक्षा उत्तीर्ण करना किसी कर्मचारी को उच्च ग्रेड में नियुक्ति के लिए अर्हकारी परीक्षा नहीं है और न ही हिंदी शिक्षण योजना द्वारा जारी हिंदी आशुलिपि परीक्षा उत्तीर्ण प्रमाण पत्र के आधार पर किसी कर्मचारी को उच्च ग्रेड में प्रोन्नति के लिए चयन प्रक्रिया से छूट दी जा सकती है।"

meaning that "passing Hindi Stenography test, conducted by Hindi Teaching Scheme does not entitle any employee to appointment to any higher grade and on the basis of the said qualification no employee can be exempted from selection process for promotion to the higher grade." That being the case, the respondents could not have promoted the applicant as Personal Assistant on the basis of having qualified the Hindi Shorthand test conducted by the Hindi Teaching Scheme. They also could not have given any relaxation in the matter. As such the respondents asking the applicant to appear before ISTM had acted legally and correctly. The same has to be endorsed. This Tribunal also cannot order this relaxation from the conditions prescribed in the rules.

7. In the result, for the reasons given above, we find that this application has no merit. The same is accordingly dismissed. No order as to costs."

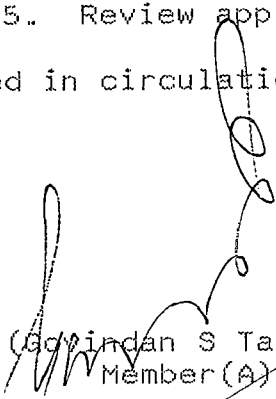
3. The applicant now states that the above order merits recall and review on the grounds that certain material, relevant facts and aspects have not been noticed by the Tribunal, that the Tribunal had proceeded on erroneous interpretation of facts, certain material facts pressed by the counsel did not find a place in the order, all of which led to the incorrect order being issued by the Tribunal. According to the applicant, the respondents had not correctly given effect to the order of the Tribunal, dated 8.2.2001, issued while disposing of the applicant's earlier OA No. 965/2000, whereunder the respondents were directed "to consider the claim of the applicant for promotion to the post of PA in the aforesaid 6th post i.e. the post for which Steno Grade 'D' (Hindi) is to be considered, in accordance with rules and instructions, subject to the fulfilment of the conditions mentioned therein". This had led to the filing of the OA No.2164/2001. However, the applicant states that the Tribunal has not appreciated the fact that he was, qualified to become PA on the basis of the RRs and that no relaxation whatsoever was required to make him so. Further

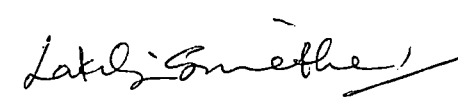
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knowledge of Stenography was not at all a criterion for promotion as P.A., which also was not understood by the Tribunal.

4. We observe that the order under reference was an oral order, pronounced in the open court, at the culmination of oral submissions and in presence of both the counsel. If either of the counsel felt that facts presented by them had not been brought on record, it should have been brought to our notice at that time. Counsel for the applicant had not done so. Therefore, the present plea is unacceptable. Further it would be seen that we had detailed the circumstances of the case and the findings which led to our decision. And the said decision represents our appreciation of facts, and the interpretation of law on the subject. What the applicant seeks is the re-appreciation of the same facts and law, by re-arguing the issues, as it appears to the applicant that the stand taken by him is the only possible position and it has to be upheld, come what may. The same cannot be accepted. Applicant is obviously disappointed by the decision. Hence he seeks to re-argue the case, which is not provided for under review.

5. Review application, having no merit fails and is rejected in circulation.


(Govindan S Tampi)
Member (A)


(Smt. Lakshmi Swaminathan)
Vice Chairman (J)

Patwal/