

CENTRAL ADMINISTRATIVE TRIBUNAL: PRINCIPAL BENCH

R.A. NO. 120 of 2003 In
Original Application No. 3526 of 2001
along with MA Nos. 2681/01 and 2762/01 and

OA No. 557 of 2002
along with MA No. 483 of 2002

New Delhi, this the 11th day of September, 2003

HON BLE MR.V.K. MAJOTRA, MEMBER (A)
HON BLE MR.KULDIP SINGH, MEMBER (JUL)

Mukesh Kumar Malviya and Others ..Review Applicants

(By Advocate: Shri B.B. Raval)

Versus

Union of India and Others ..Respondents

(By Advocate: Shri R.L. Dhawan)

O R D E R

By Hon ble Mr. Kuldip Singh, Member (J)

The applicants have filed this Review Application seeking review of the order dated 18.2.2003 vide which OA 3526 of 2001 and OA 557 of 2002 along with various MAS were disposed of. The review applicants submit that the errors had crept in because the counsel for the applicants had fallen ill in the month of September, 2002 and was required to be hospitalised in ICCU and also suffered a relapse during the Christmas vacation. Besides that he has submitted that the copy of the order dated 6.1.2003 which was despatched by the Tribunal on 16.1.2003 was received by the applicants on 22.1.2003 while the date was fixed on 16.1.2003 itself so there is error because no proper intimation with regard to date of hearing of the case was given to the applicants and the counsel for the applicant continued to remain sick at Ahmedabad and could not look after the case.

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It is further stated that due to lack of assistance from the ailing counsel for the applicants the court had not taken into consideration the contentions of the applicants in their rejoinder dated 21.5.2002.

It is further submitted that respondents were directed to produce the record of the Screening Committee, subsequent posting order after passing the screening test and preparing a finalised seniority list so that while affecting the transfer, the last one or the junior most one should be declared surplus. Thus the findings recorded in the judgment that the respondents have fully complied with the directions of the Tribunal has not been substantiated with any documents.

It is further stated that the Tribunal has wrongly indicated that 8.3.2002 was correct seniority list even though it does not contain the names of the applicants Mukesh Kumar Malviya and Others.

We have heard the learned counsel for the parties and gone through the records of the case.

As regards the illness of the applicants counsel is concerned that was duly taken note by the Tribunal and since the applicants counsel was ill for a long spell so in order to give a fair and proper opportunity to the applicants the court had directed that since the counsel for the applicants is not appearing due to his illness so intimation should be sent to the applicants to appear in person as per order dated 16.11.2002 that the case was listed for 27.11.2002. Thereafter the case was listed on 30.12.2002 and none had

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been appearing for the applicants though the opposite counsel was all the time making an objection to the adjournment as interim order was in operation against the respondents.


The court had been recording objection of the respondents but still adjourned the case in order to see that someone from the applicants side may appear to assist the court. On 16.1.2003 the applicants were advised to make suitable arrangements and to argue the case. Again on 18.2.2003 since none had appeared so OA was decided under Rule 15 of the CAT Rules.

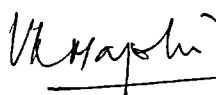
As regards the errors pointed out by the applicants in the judgement are concerned for non-appearance of the applicants or their counsel we note that the court had granted sufficient opportunities. On many occasions the court had observed that since none is appearing for applicants still sufficient time was given to the applicants to engage the counsel. Further applicants has also pointed out that the order dated 16.1.2003 reached them quite late. As regards this we may mention that court was not obliged to issue copy of order but since the applicants remained unrepresented so it was again made clear that if suitable arrangements were not made by the applicants then the case will be decided ex-parte. But since the court had ordered that the copy of the order be issued to both the parties then the Registry in compliance of the same had issued the order but it is not as an intimation of date fixed by the court for hearing as required at the first instance for the service of the applicants so the applicants cannot make any capital out of it.

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As regards the Annexure R-5 is concerned though the applicants submit that it was only a list of few persons and name of all the persons was not there but we have again checked up R-5 seniority list which runs in several pages and on the paper book it runs from pages 87 to 102 and it is quite an exhaustive list and includes all those candidates and the same has been prepared in accordance with the directions given by the Allahabad High Court so we find that there is no error apparent on the face of the record so no case is made out for the review.

In view of the above, RA has no merits and the same is rejected. No costs.


(KULDIP SINGH) 11-9-2003
MEMBER (JUDL)


(V.K. MAJOTRA)
MEMBER (A)

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