

Central Administrative Tribunal
Principal Bench

...

RA 40/96 in OA 71/94
&
RA 53/96 in OA 2280/94

New Delhi this the 30th day of June, 1997

Hon'ble Mrs. Lakshmi Swaminathan, Member(J).
Hon'ble Shri R.K. Ahooja, Member(A).

RA 40/96 in OA 71/94

S.P. Shukla,
S/o Shri R.S. Shukla,
R/o 13/185, Indira Nagar,
Lucknow.

...Applicant.

By Advocate Shri Shyam Babu.

Versus

1. Union of India, through
Secretary,
Ministry of Food Processing Industry,
Panchsheel Bhawan,
Khel Gaon Marg,
New Delhi.

2. A.K. Paliwal,
Deputy Director (F&VP),
Ministry of Food Processing
Industries,
New Delhi.

...Respondents.

By Advocate Shri M.M. Sudan -for Respondent 1.

By Advocate Mrs. Meera Chibber - for Respondent 2.

RA 53/96 in OA 2280/94

V.V. Koteswara Rao,
S/o Shri B. Sanapurniah V.,
Deputy Director (F&VP),
Ministry of Food Processing
Industries, Shastri Bhawan, Haddows Rd,
Madras.

...Applicant.

By Advocate Shri Shyam Babu.

Versus

1. Union of India, through
Secretary, Ministry of
Food Processing Industries,
Panchsheel Bhawan,
Khel Gaon Marg,
New Delhi.

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2. Shri A.K. Paliwal,
Dy. Director (F&VP),
Ministry of Food Processing Industries,
Panchsheel Bhawan, Khel Gaon Marg,
New Delhi.

3. Shri S.B. Dongre,
Plot No. 53, D. No.4,
Chetty Nagar, Camp Road,
Opposite Selaipur,
Madras.

...Respondents.

By Advocate Shri M.M. Sudan - for Respondent 1.

By Advocate Mrs Meera Chibber - for pvt. respondents.

O R D E R

Hon'ble Smt. Lakshmi Swaminathan, Member(J).

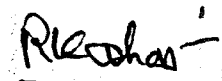
The aforesaid two Review Applications have been filed against the judgement/order dated 11.1.1996 delivered in O.As 71/94 and 2280/94 which were disposed of by the same order. We have carefully considered the arguments advanced by Shri Shyam Babu, learned counsel for the review applicants and the submissions of Shri M.M. Sudan and Ms Meera Chibber, learned counsel for the respondents.

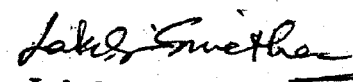
2. Shri Shyam Babu, learned counsel for the review applicants, has very strongly argued that the conclusions of the Tribunal on the ground of res judicata and non-joinder of parties ~~is~~ erroneous. According to him, the dismissal of the Original Application on the ground of constructive res judicata by observing that the grievance in the present O.A. could have been brought in O.A. 348/87 is erroneous as the Tribunal had completely ignored the fact that ^{the} challenge in the present application was to the order dated 28.5.1993 which was issued much after O.A. 348/87 was decided. Similarly, he has advanced lengthy arguments to show that the conclusion of the Tribunal regarding non-joinder of the parties is erroneous and not borne out by the facts. He relies on the judgements in The General Manager, South Central Railway, Secunderabad & Ors. (1974(4) SCC 335) and V.P. Shrivastava and Ors. Vs. State of M.P. & Others (1996(7) SCC 759). He submits that when a policy decision is challenged, the non-joinder of parties is ^{not} fatal and, therefore, the Tribunal has arrived at a wrong conclusion.

(X)

3. The respondents on the other hand have submitted that the Tribunal has after detailed discussion in paragraphs 14-17 of the O.A. come to the conclusion that the O.A. is barred by the principles of constructive res judicata. They have submitted that the review applications would not lie because there is no merit in the contentions of the learned counsel for the applicants. Mrs. Meera Chibber, learned counsel, has also relied on the judgements of the Supreme Court in V.P. Shrivastava & Ors. Vs. State of M.P. & Ors. (1996(7) SCC 759 and the Tribunal in Hakim (Mrs.) Kausar Parveen Vs. Secretary of Health and Family Welfare & Ors. (1996(3) (CAT) 221). They have, therefore, prayed that the review applications may be dismissed.

4. After careful consideration of the review applications, the replies and the submissions of the learned counsel for the parties, we are of the considered view that these review applications are not maintainable. It is evident from the submissions made by the learned counsel for the applicants that he is trying to reargue the case regarding the post meant for ^{the} promotee and that meant for ^{the} direct recruitment. ^{13.} Under the provisions of Section 22(3)(f) of the Administrative Tribunals Act, 1985 read with Order 47 Rule 1 CPC, the review applications are not maintainable as no error of law or patent mistake or any other ground is shown which warrants any interference in the matter. It is settled law that the power of review cannot be exercised on the alleged ground that the decision is erroneous on merits. That would be the province of the court of appeal. A perusal of the judgement which is a detailed and reasoned one, shows that the so called errors alleged to have been committed are, in fact, no errors at all but are conclusions/findings reached on the basis of the pleadings and the other materials on record. The Review Application Nos. 40/96 and 53/96 are accordingly dismissed.


(R.K. Ahojja)
Member(A)


(Smt. Lakshmi Swaminathan)
Member(J)