

Central Administrative Tribunal
Principal Bench

RA 115/98
in
O.A. 357/95

(16)

New Delhi this the 3 th day of July, 1998

Hon'ble Shri S.R. Adige, Vice Chairman (A).
Hon'ble Smt. Lakshmi Swaminathan, Member (J).

1. Comptroller and Auditor General
of India, 10, Bahadurshah Zafar Marg,
New Delhi-110002.
2. Secretary, Ministry of Finance,
Department of Expenditure,
North Block,
New Delhi.
3. Secretary,
Ministry of Personnel, Public
Grievances and Pensions,
North Block, New Delhi. ... Review Applicants.

Versus

1. S.K. Chauhan,
S/o Shri Gian Singh,
R/o 972, Sector 7,
Pushpa Vihar, New Delhi.
2. Thomas Verghese,
S/o Shri Verghese Chacko,
R/o J&K 213-B,
Dilshad Garden, New Delhi.
3. Narendra Singh,
S/o Shri Ganpat Ram,
R/o H.No. 446, Sector-6,
Bahadurgarh (Haryana) ... Respondents.

O R D E R (By circualtion)

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

The respondents in original application have filed this review application praying for review of the impugned judgement/order dated 1.5.1998 in O.A. 357/95 in the interest of justice, equity and fair play claiming that the conditions laid down under Order 47 Rule 1 CPC stand fully complied with.

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2. We have carefully considered the review application and the main grounds taken therein are as follows:

(i) While in Para 2 of the impugned order, it is stated that the applicants 1 and 3 have since been promoted as A.Os, the grievance of Applicant No. 3, however, survives whereas it is mentioned in Para 7 that the O.A. in respect of Applicant 2 is allowed.

On perusal of the impugned order, we find that there is a typographical error in line 4 of Para 2 where instead of Applicant '3' it should read as '2'. The Registry to issue the necessary correction in this regard.

(ii) The review applicants/respondents have submitted that the Tribunal has inadvertently mentioned the statements of the applicants/respondents that they are maintained a roster post-wise and they contend that in the counter reply they have mentioned that roster is being maintained on the vacancy-based in accordance with the rules which are vacancy based.

In the counter reply, we find that what the respondents have submitted is that they are maintaining a roster as running account to give effect to the provisions of the recruitment rules and they have stated that the

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contention of the applicants that no roster is being maintained is false and frivolous. The averments made in the review application that the Tribunal has inadvertently mentioned the statements of the applicants in paragraphs 3 and 6, is, therefore, not in accordance with what was submitted during the time of hearing when reliance was also placed on the judgement of the Supreme Court in **R.K. Sabharwal Vs. State of Punjab** (1995 SC SLJ 330). We, therefore, do not find this is a sufficient ground which comes within the purview of Order 47 Rule 1 CPC in allowing the review application.

(iii) The applicants/original respondents have also submitted that the deputation of Officers to the Controller and Auditor General of India is of special type as no special pay or allowance is paid to such officers and the Tribunal has not appreciated the special status of the CAG and the needs of the organisation.

In this context, in the review petition the arguments have been reiterated which were advanced before the Court and noted in the judgement before the impugned order dated 1.5.1998 was passed. It is settled law that the review application cannot be treated as an appeal or used as a means to reargue the case by the party aggrieved. Mere repetition of the arguments which have been rejected in

the impugned order will not, therefore, be germane to the review application which on this ground, is, therefore, not maintainable.

(iv) It has been submitted that certain preliminary objections regarding non-joinder of parties and under Rule 10 of the CAT (Procedure) Rules, 1987 have not been noticed by the Tribunal and, therefore, it remains uncontested.

(a) In the reply, the respondents have submitted that the deputationists are necessary parties. However, in the impugned order the principle of law dealing with the deputationists has been dealt with regarding their period of tenure, etc. according to the recruitment rules. It is settled law that in these circumstances each one of the deputationists need not be impleaded as a necessary party. (See South Central Railway, Secunderabad Vs. Siddhanti (1974(4) SCC 335).

(b) Regarding the other preliminary objections regarding multiple reliefs, since the applicants 1 and 3 had already been promoted as A.Os during the pendency of the O.A., relief in respect of applicant 2 was only granted directing the respondents, *inter alia*, to consider the case of the applicants for promotion as A.O after conducting the review as directed therein. In this view of the matter, there is no question of multiple reliefs and

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these grounds are, therefore, also not sufficient to justify review of the order dated 1.5.1998 (see the observations of the Hon'ble Supreme Court in *Chandra Kanta and Anr. Vs. Sheik Habib* (SIT 1975 SC 1500), *Thungabhadra Industries Ltd. Vs. The Government of A.P.* (AIR 1964 SC 1372), *Northern India Caterers Vs. Lt. Governor, Delhi* (AIR 1980 SC 674) and *Meera Bhanja Vs. Smt. N.K. Choudhary* (JT 1994 (Vol. 7) SC 536).

3. In the result, for the reasons given above,

(a) we allow this application to the extent mentioned in sub-para (i) of Para 2 above i.e. applicant '3' to read as applicant '2' in line 4 of para 2 of the order dated 1.5.1998 for which Registry may issue necessary correction;.

(b) As regards the other contentions in RA 115/98, we find no justification under Section 22(3) (f) of the A.T. Act, 1985 read with the provisions of Order 47 Rule 1 CPC to allow this application and it is accordingly dismissed.

Lakshmi Swaminathan
(Lakshmi Swaminathan)
Member (J)

S.R. Adige
(S.R. Adige)
Vice Chairman (A)