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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH: NEW DELHI

RA-59/96 in
OA-519/95

New Delhi this the 8th day of ~~December~~ ^{JANUARY} 1997

Hon'ble Shri S.R.Adige, Member(A)
Hon'ble Dr. A.Vedavalli, Member(J)

Shri Mohammad Aseem

Review applicant

IN OA 519/95

S.A.S.Rizvi,
Research Officer,
Bureau for promotion of Urdu,
West Block-I, R.K.Puram,
New Delhi.

....Applicant

(By Advocate: Shri C.HariShankar)

Versus

Union of India
through

1. The Secretary,
Ministry of Human Resource Development,
Department of Education,
Shastri Bhawan,
New Delhi-110001.

2. The Director,
Bureau for Promotion of Urdu,
West Block-I, R.K.Puram,
New Delhi.

....Respondents

(By Advocate: Shri M.K.Gupta)

ORDER

Hon'ble Shri S.R.Adige, Member(A)

Shri Mohd. Aseem seeks review of the judgement dated 29.11.95 in OA No. 519/95 S.A.S.Rizvi Vs. Secretary Ministry of Human Resource Development & another.

2. In that OA the applicant Shri Rizvi's grievance was that the respondents were not convening the DPC to make promotion to the grade of Asstt. Director Bureau for promotion of Urdu(BPU) although he was fully eligible to be considered for promotion and vacancies were available. After hearing both sides the OA was dismissed by impugned judgement



dated 29.11.95 on the preliminary objection taken by respondents that the (BPU) had since been organised into the National Council for promotion of Urdu (NCU) which had been registered as a Society vide its Memorandum of Association, over which the Tribunal had no jurisdiction, it not being notified under Sec-14(2) AT Act.

3. The present RA has been filed by a third party namely Shri Aseem, who was not a party in the OA on the ground that he has come into possession of certain documents (copies filed) that go to show that upto the end of 1995 and possibly the beginning of 1996 the BPU had not been replaced by any NCU and was in fact very much functioning as an office of the Department of Education, Ministry of Human Resource Development.

4. The respondents in their reply have challenged the RA not only on grounds of limitation but have averred that after the registration of the NCU which is an autonomous body under the Societies Registration Act on 20.6.94, its legal status has undergone a change and the Tribunal has ceased to have any jurisdiction over the service matters of their employees in the absence of any notification under Section 14(2) AT Act.

5. We have heard review applicant's counsel Shri Hari Shankar and review respondent's counsel Shri M.K.Gupta. We have also perused the materials on record and given the matter on careful consideration.

6. Shri Hari Shankar has contended (and has also filed written submissions which are taken on record) ~~as~~ that a notification under section 14 (2) giving jurisdiction to the Tribunal would become relevant only in a case when

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the applicant was appointed to inter alia a society owned or controlled by the Govt. When at the time of appointment of the applicant it was not to the Society but of its predecessor Dept. (which was admittedly within the Tribunal's jurisdiction) no question of issuance of notification by the Central Govt. under Sec. 14(2) arises.

7. Under Sec. 22(3)(f) of Administrative Tribunals Act read with Order 47 Rule 1 C.P.C. any judgment/decision/order of the Tribunal can be reviewed only:

- i) on account of some mistake or error apparent on the face of the record;
- ii) from the discovery of new and important matter or evidence which after the exercise of due diligence was not neither the applicant's knowledge nor could be produced by him at the time this order was made; and
- iii) for any other sufficient (meaning analogous) reason.

8. The legal point raised by Shri Hari Shankar (on behalf of third party whose own grievance vis-a-vis respondents has not been spelt out), which has been referred to in para 6 above, may be an arguable one, which the review applicant is at liberty to raise ^{through} in the appropriate ^{instrument} ~~forum~~, if so advised, but in the facts and circumstances of the particular case before us we hold that it does not come within the scope and ambit of Order 47 Rule C.P.C. as outlined above. In this connection it is also relevant to remember that what applicant Shri Rizvi had sought in substance

2

237

in the O.A. was a direction to respondents to convene the D.P.C. at an early date to consider promotions to the grade of Asst. Director. Respondents are on record in their reply to the R.A. to which there is no rejoinder, stating that consequent to the registration of NCU under the Societies Registration Act on 20.6.94, a policy decision has been taken that till the recognition of the BPU as a Society is complete, a process which undoubtedly takes some time, no vacant post is to be filled up.

The Tribunal cannot interfere in such a policy decision unless the same is established to be arbitrary, perverse or malafide and there is no averment in the pleadings either in the O.A. or indeed in the R.A. to indicate that it is any of these. If and when it is considered necessary to fill up the vacant post in the public interest, that task will have to be performed by the NCU, which, as stated above is an autonomous body registered under the Societies Registration Act on 20.6.94, with its own juridical personality, and in the absence of the Notification under Section 14(2) A.T. Act as already held in the impugned judgment, is presently not within our jurisdiction.

9. The R.A. is therefore rejected.

A. Vedavalli

(Dr. A. Vedavalli)
Member (J)

/GK/

S.R. Adige
(S.R. Adige)
Member (A)