

(15) (53)

CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

RA No.167/2002 in
OA No.2083/2000

New Delhi this the 1st day of April, 2004.

HON'BLE MR. V.K. MAJOTRA, VICE-CHAIRMAN (ADNV)
HON'BLE MR. SHANKER RAJU, MEMBER (JUDICIAL)

Prem Prakash Gupta & Others -Review Applicants
(By Advocate Shri B.B. Raval)

-Versus-

1. Govt. of National Capital Territory
of Delhi through the Chief Secretary,
5, Shamnath Marg, Delhi.
2. The Secretary (Education),
Ministry of Human Resource Development,
Government of India, Shastri Bhawan,
New Delhi-110001.
3. The Director (Technical Education),
Govt. of NCT of Delhi,
Near TV Tower,
Muni Maya Ram Marg,
Pitam Pura,
Delhi-110034.

-Respondents

(By Advocate Mrs. Renu George)

O R D E R (ORAL)

Mr. Shanker Raju, Member (J):

Denial of implementation of AICTE recommendations
in the case of Lecturers in the Polytechnic by the
Government of NCT w.e.f. 1.1.1986 led to filing of
OA-2083/2000.

2. By an order dated 17.5.2002 having regard to
the decision of the Apex Court in **Union of India v. P.V.
Hariharan**, 1997 (2) SLR 232, as the Ministry of Human
Resource Development which has to decide the matter finally
has agreed to grant of revision only prospectively the OA
was dismissed.

3. Learned counsel for applicant Shri B.B. Raval
contends that recommendations of Dogra Committee in case of

18/54

(2)
one Gyan Chand who was working as Workshop Superintendent in the Polytechnic and in whose case pay scale of Rs.8000-13000 was denied in OA-647/2001 decided on 9.4.2002 and the pay scale as prescribed vide letter dated 20.9.89 was accorded to applicant therein. Having regard to the aforesaid it is stated that despite due diligence the aforesaid decision could not be produced before the Tribunal, which passed an order on 17.5.2002 as being discovery of a new material where a similar claim has been allowed this RA is to be allowed with grant of relief prayed for in the OA.

4. On the other hand, respondents' counsel does not dispute the grant of benefit in OA-647/2001 and states that a Writ Petition against it is pending before the High Court of Delhi. Whether the decision of the Tribunal has been stayed or not, no information in this regard has been furnished to us.

5. Learned counsel further states that Government of NCT of Delhi has taken a decision regarding implementation of AICT pay scale and career advancement claim w.e.f. 16.2.96 and 1.11.96 respectively rather than 1.1.96 on the advice of the Ministry of HRD.

6. We have carefully considered the rival contentions of the parties and perused the material on record. In a review under Section 22 (3)(f) read with Orders XLVII (1) and (2) of CPC review is permissible on an error apparent on the face of record and also on discovery of new and important material, which even after exercise of due diligence could not have been produced by the parties. A decision rendered per incuriam or a decision of the

17 55

(3)

coordinate Bench can also be within the scope and ambit of power of review. Moreover, review can also be done to prevent miscarriage of justice or to rectify the mistake. Following cases of the Apex Court strengthen the conclusion arrived at:

- i) Lily Thomas v. Union of India, 2000 (6) SCC 224.
- ii) S. Nagraj v. State of Karnataka, 1994 (1) SLJ 61.
- iii) A.T. Sharma v. A.P. Sharma, AIR 1979 SC 1047.
- iv) Surjeet Singh v. Union of India, 1997 (10) SCC 592.
- v) Shanker A. Mandal v. State of Bihar, 2003 (2) SCSLJ 35.

7. If one has regard to the various pronouncements of the Apex Court review is permissible when despite due diligence on discovery of new and important material was not within the knowledge of the person seeking review or could not be produced at the time when the order was made.

8. The decision in P.V. Hariharan's case (supra) though precludes the Tribunal from interfering in the matter of pay scale which is left to the executive and expert bodies but a review is permissible when a clear case of hostile discrimination is made out, which is an anti thesis to principles of equality enshrined under Articles 14 and 16 of the Constitution of India. The Dogra Committee which has

(4)

been appointed to look into the question of revision of pay scale of teaching staff of engineering as well as polytechnic the recommendations for engineering staff have been accepted but in the case of lecturers recommendations were not implemented w.e.f. 1.1.86. A decision was taken in consultation with the Ministry of Human Resource Development by the Government of NCT. Accordingly, benefits have been extended prospectively from 16.2.96 an 1.11.96. An insidious discrimination cannot be permitted. We also find that Government of NCT of Delhi has made provisions regarding extension of recommendations to the Lecturers of Polytechnics in their Budget for the year 1992-93. Teaching staff in engineering as well as in Polytechnic the recommendations which resulted in implementation emanates from the expert committee, i.e., the Dogra Committee.

9. A decision in OA-674/2001 the benefit of recommendations of Dogra Committee has been accorded to the Workshop Superintendent in G.B. Pant Polytechnic w.e.f. 1.1.86. The aforesaid judgement was delivered on 9.4.2002 and could not be produced even after exercise of due diligence by applicants. This, in our considered view, is discovery of new material which even after due diligence could not be produced by the review applicants. The aforesaid judgment goes to the root of the matter and establishes that Tribunal in similar circumstances pertaining to the Polytechnic staff has accorded benefits retrospectively from 1.1.86. The aforesaid decision could not have been considered where the claim of applicants in the present RA is to be allowed for hostile discrimination

(5)

by the respondents in implementing the AICT recommendations w.e.f. 1.1.86. On the basis of the aforesaid conclusion we have no hesitation to allow the present RA.

10. We have also heard the parties in OA having regard to the decision of the Tribunal in OA-647/2001. RA stands disposed of with direction to the respondents to accord to applicants pay scale/career advancement scheme as recommended by Dogra Committee w.e.f. 1.1.86. They would be paid the consequential benefits within a period of three months from the date of receipt of a copy of this order. No costs.

S. Raju
(Shanker Raju)
Member (J)

'San.'

V.K. Majotra
(V.K. Majotra)
Vice-Chairman (A)
1.4.04