

**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH**

**R.A. 59/2012
In
O.A. No. 134/2000**

New Delhi this the 20th day of May, 2014

**HON'BLE MR. G. GEORGE PARACKEN, MEMBER (J)
HON'BLE MR. SHEKHAR AGARWAL, MEMBER (A)**

1. Union of India
Through the Secretary,
Department of Communication
(Department of Posts),
New Delhi.
2. The Post Master General,
Agra Region, Agra.
3. The Sr. Supdt. Post Offices,
Mathura Division,
Mathura.
4. The Assistant Suptd. Post Office,
West Sub Division,
Mathura.
5. The Sub Divisional Inspector Post
Office,
North Sub Division,
Mathura.

..Review Applicants in
the RA/Respondents in
the OA

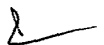
(By Advocate: K.K. Patel)

Versus

Devesh Kumar Upadhay
S/o Shri Har Swaroop
Resident of
Village and Post Office
Siria Ki Nagaria
District Mathura.

..Respondent in RA/
Applicant in OA

(By Advocate: None)



ORDER (ORAL)**Hon'ble Mr. G. George Paracken, Member (J)**

This RA has been filed by the respondents in OA No.134/2000 decided on 21.05.2001. The relevant part of the said order reads as under :-

"4. We, therefore, allow the OA and direct the respondents to consider the case of the applicant against any vacancy of EDA which may arise along with other candidates who may be sponsored. The applicant will be given due consideration and preference on account of service already rendered by him.

5. The OA is disposed of with the above direction. No order as to costs."

2. This RA was earlier dismissed of by this Tribunal vide order dated 01.04.2002. The relevant part of the said order reads under :-

"2. By filing the present RA the respondents have tried to re-argue the whole case again. All the grounds taken in the RA were also agitated by the respondents at the time of arguing the OA and the same were dealt by this Tribunal in detail as the order was passed in the open court. No fresh error has been pointed out which may call for review of the order and more so the RA does not come within the ambit of Order 47 Rule 1 CPC read

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with Rule 22(3)(f)(i) of the Administrative Tribunal's Act.

3. In view of the above, nothing survives in the RA, which is accordingly dismissed. Accordingly MA 472/2002 filed for condonation of delay is also rejected."

3. The Review Applicants challenged the aforesaid order, vide Writ Petition No.3079/2002, before the Hon'ble High Court of Delhi and the High Court, vide its order dated 21.08.2013, set aside the aforesaid order dated 01.04.2002 in the RA and the same was restored for adjudication on merits, observing as under :-

3. The petitioner sought review pointing out to the Tribunal that the policy circular on which the respondent relied was only applicable to casual labourers. It was pointed out in the review application that said aspect of the matter was not considered by the Tribunal nor did the Tribunal consider a 5 Judge Bench decision of the Bangalore Bench of the Tribunal.

4. Dismissing the review application vide impugned order dated April 01, 2002, the Tribunal has observed that the points urged in the review application were dealt with by the Tribunal in detail in its order under review.

5. Highlighting that the order dated April 01, 2002 does not record the points urged in the review application were neither pleaded nor argued before the Tribunal, we would simply

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observe that it has incorrectly been recorded in the order dated April 01, 2002 that the points urged in the review application were considered and dealt with in the order dated May, 21, 2001.

6. Accordingly, we set aside the order dated April 01, 2002. We restore R.A.No.59/202 for adjudication on merits by the Tribunal observing that ex facie the contentions urged in the review petition had neither been noted nor dealt with by the Tribunal in its main order dated May 21, 2001."

4. On receipt of the aforesaid order of the High Court, this case was listed on several occasions before the Registrar Court of this Tribunal. In spite of several opportunities, the applicant did not appear and, therefore, the Registrar has referred the matter to this Bench vide his order dated 15.01.2014 for appropriate orders. Thereafter, the case was considered by this Bench on 30.01.2014 and directed the Registry to issue fresh notice to the Applicant returnable on 20.03.2014. On 20.03.2014, since the service of the notice on the applicant was awaited, the case again been adjourned for today. According to the Registry, the service is now complete but neither the Applicant nor his counsel is present.

5. We have, therefore, heard Shri K.K. Patel, the learned counsel for the Review Applicants. We have also gone



through the Review Application. For the reasons stated therein, the RA is allowed and the OA is restored.

6. Issue fresh notice to the applicant in the OA returnable on 12.08.2014.

7. In the interest of justice, a copy of this order may also be sent to the applicant in the OA by Registered Post.



(SHEKHAR AGARWAL)
MEMBER (A)

/rk/



(G. GEORGE PARACKEN)
MEMBER (J)

RA Allowed
Notice Issued
S/Awaited
P/Complete