

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH NEW DELHI.

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RA No.426 of 1993 in O.A.No.1299 of 1993. 11

New Delhi this the 6th day of *March*, 1993.

Hon'ble Mr. Justice S.K. Dhaon, Vice-Chairman

Hon'ble Mr B.N.Dhoundiyal, Member(A).

Shree Bhagwan Singh
S/O Shri Gauri Shanker Singh,
R/O C-II/131, Moti Bagh, New Delhi. Applicant.
(through B.T.Kaul, Advocate).

vs.

1. Union of India through the Secretary, Ministry of Defence, South Block, New Delhi.
2. The Controller of Defence Accounts, Headquarters, G-Block, Hutments, New Delhi.
3. The Controller General of Defence Accounts, R.K.Puram, West Block-V, New Delhi.....Respondents.
(through P.H.Ramchandani, Advocate).

AND

Kumari Chanda d/o Shri Hukan Chand r/o H.No.14/7,
Malviya Nagar, New Delhi. ... Review applicant/
intervenor.

(through J.P.Verghese, Advocate).

ORDER(by circulation).

B.N.DHOUNDIYAL, MEMBER(A).

This Review application has been filed by Kumari Chand, seeking a review of the directions given by this Tribunal on 9.9.1993, directing the respondents to declare the result of the test held on 8.2.1993 and promote Shri Bhagwan Singh, applicant in that case on the basis of such declaration. It has been stated that this examination was a selection examination and since the review applicant had secured more marks than Shri Bhagwan Singh, she could have been appointed as a result of this examination, but by this direction this Tribunal has indirectly declared the result of the review applicant without looking at the result of the examination. Judgment has been passed ex-parte against the applicant who was not impleaded. It is also claimed that the review applicant was holding

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the post after proper appointment and pay fixation.

2. The review applicant was not impleaded as a party in the aforesaid Original Application nor did she ever file an application for impleadment. She ceased to hold the post of Clerk on 26.4.1993. The O.A. was filed on 9.6.1993 and the judgment was given on 9.9.1993 and during the time she had already been reverted to the post of Peon. Her remedy would have been to challenge the order of her reversion in an Original Application. She cannot rectify this by filing a review application in a O.A. in which she was not a party. Moreover, our directions clearly state that the result of examination held on 8.2.1993 have to be declared and the applicant has to be promoted on the basis of such declaration. In case the review applicant is declared as successful, there would be no basis on which the respondents can appoint Shri Bhagwan Singh as Clerk. In the counter filed in the above O.A., it was stated that :

"... Since the applicant who was the seniormost of the 3 serving Group D employees did not achieve the minimum speed of 30 WPM even after allowing a grace of 5% in time, he was declared as having failed in typing test. Km.Chanda Achieved over 30 WPM after allowing a grace of 5%, she was declared passed in typing test and as she had passed other papers also, she was declared successful in the aforesaid departmental examination."

3. The appointment of Kumari Chanda as Clerk was cancelled as erroneous and she was treated as having held the post in adhoc capacity from 19.3.1993 to 26.4.1993. There is no mention that the review applicant had secured higher marks than Shri Bhagwan Singh.

4. In view of the above, we hold that

:-3-:

this Review Application is not maintainable
and it is hereby dismissed.

B.N. Dhondiyal
(B.N. Dhondiyal)
Member(A).

S.K. Dhaon
(S.K. Dhaon)
Vice Chairman