

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI.

RA 49/97, RA 103/96
MA 157/97, MAs 1310, 1311/96
OA 1526/90

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New Delhi this the 19th day of August, 1997.

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

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

In the matter of :

Shri Madan Lal Gautam and Others Original
Applicants
Respondent in R.A.

Versus

Director of Education and others Respondents in OA

And in the matter of

Union of India through the Secretary
to the Govt. of India,
Ministry of Human Resource Development,
Department of Education, Govt. of India,
Shastri Bhawan, New Delhi-110001

.. Applicant in R.A.
(By Advocate Shri E.X. Joseph, learned
Senior counsel)

Vs.

1. Shri Madan Lal Gautam,
Jr. PET Gr. II (D. Admn.)
R/o A-62, Chandra Nagar,
Ghaziabad (UP)
2. Shri D.K. Arya,
Jr. P.E.T. Gr. II (D. Admn.),
R/o 32/104, Vishwas Nagar,
Shahdara, Delhi-110032
3. Shri Ratan Sain Jain,
Jr. P.E.T. Gr. II (D. Admn.)
R/o 253-D, Bholanath Nagar,
Shahdara, Delhi-110032.
4. Shri Subey Singh,
Jr. PET, Gr. II (D. Admn.)
R/o 3607, Gandhi Nagar, Delhi-31
5. Shri Mahendra Pal Kaushik,
Jr. PET (Delhi Admn.)
R/o 4/2936, Bholanath Nagar,
Shahdara, Delhi-32.
6. Sh. Girwar Singh Yadav,
Jr. PET Gr. II (D. Admn.)
R/o A-69, Jagatpuri, Gali No. 6,
Delhi.

7. Sh. Kali Charan Tyagi,
Jr. PET Gr. II (D. Admn.),
R/o 276-C, Chanakya Marg,
Chhajpur, Shahdara, Delhi-32
8. Shri Daya Chand
Jr. PET Gr. II (D. Admn.),
R/o 2195, Chab Indara, Dr. HC Sen Road,
Delhi
9. Shri G.D. Sachdeva,
Jr. PET Gr. II (D. Admn.),
R/o C/158, Janakpuri,
New Delhi-110058
10. Shri Jasbir Singh
Jr. PET Gr. II (D. Admn.),
R/o Village and P.O. Lowakalan,
Distt. Rohtak (Haryana)
11. Shri Daleel Singh
Jr. PET Gr. II (D. Admn.),
R/o near bus stand, Village
and P.O. Bawana, Delhi-110039.
12. Shri K.D. Gautam,
Jr. PET Gr. II (D. Admn.),
R/o 143-A, Gupta Colony,
Delhi-9
13. Shri J.P. Govil,
Jr. PET Gr. II (D. Admn.),
R/o E-252, Govt. Qrts., Dev Nagar,
Karol Bagh, New Delhi-5
14. Shri Ram Prakash Sharma
Jr. PET Gr. II (Delhi Admn.),
R/o Sant Gali, Babarpur, Shahdara, Delhi
15. Shrimati Raj Chaula,
Jr. PET, Gr. II (Delhi Admn.),
R/o 42, Shanti Vihar, Delhi-32
16. Shri Hem Chand Sharma
Jr. PET Gr. II (D. Admn.),
R/o C-5-A/146, Janakpuri, N/Delhi-58
17. Shri Bharat Singh Rana,
Jr. PET Gr. II (Delhi Admn.),
R/o Village Nangli Poone, P.O. Alipur,
Delhi-36
18. The Director of Education,
Delhi Admn. Gld Sectt., Delhi-54
19. The Secretary to the Govt. of India,
M/O Human Resource Development, Deptt. of
Youth Affairs and Sports, New Delhi.
20. The Delhi Administration through its
Chief Secretary, 5, Sham Nath Marg,
Delhi-110054.
21. The Administrator of the UT of Delhi
Lt. Governor, Raj Niwas, Delhi-54.

... Respondents in
R.A.

(By Advocate Shri H.L. Srivastava, Shri G.D. Gupta
and Shri Vivekanand, counsel for the respondents (Original
applicants 1-17))

(By advocates Shri Arun Bhardwaj with
Mrs Avnish Ahlawat, counsel for the
review respondents 18-21)

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RA 103/96 in OA 1526/90

In the matter of :

Madan Lal Gautam & Ors Original Applicants/
respondents.

(By Advocate Sh H.L. Srivastava, Shri
G.D. Gupta and Shri Vivekanand)

Versus

Director of Education & Ors... Review applicants/
Respondents

(By Advocate Sh. Arun Bhardwaj
with Mrs Avnish Ahlawat)

O R D E R

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

Review Application No. 49/97 has been filed by the
UOI through the Secretary to the Government of India,
Ministry of Human Resource Development, Department of
Education (Original respondents) ^(Dept. of Youth Affairs and Sports) in OA seeking review of
the impugned judgment dated 31.8.94 in OA 1526/90. R.A.
has been filed on 7.2.97 and MA 387/97 has been filed
for condonation of delay. MA 453/97 has been filed praying
for stay of the enforcement of the order dated 31.8.94,
pending decision in the Review Application.

2. R.A. 103/96 has been filed on 4.6.96 praying for
review of the same judgment dated 31.8.94 in OA 1526/90
filed by the respondents 1-4 seeking clarifications/modi-
fications. The respondents (applicants) in RA 103/96 have
filed MAs 1310 and 1311/96 praying for condonation of delay
and stay of the impugned order.

3. Pleadings in the above two RAs are complete.
We have heard ^{JS} the learned counsel at length.

4. The operative part of the impugned judgment in
O.A. 1526/90 dated 31.8.94 reads as follows:-

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3." During the course of the hearing, Shri Srivastava, learned counsel for the applicant has invited our attention to letter dated 11.1.1994 issued by the Ministry of Human Resource Development, Department of Education, Govt. of India addressed to the Director of Education (Delhi Administration), Respondent No. 1 stating relevant extract of which are quoted below:-

/until the issue of
the orders in the
year 1988. Former
NDS Instructors (sic)

'The PETs are better qualified than NDS Instructors in as much as the professional qualifications of PETs is an essential qualification whereas in the case of NDS Instructors, the professional qualifications is not essential. The PETs were thus enjoying higher pay scales over NDS Instructors, absorbed in schools under Delhi Administration are engaged in the same job as the PETs recruited directly by them. Thus, it is felt that the denial of parity in the pay scales between different group of peoples engaged in the same job would amount to violation of Article 14 of the Constitution of India.'

Copy of this letter has been taken on record.

4. In the light of the contents of the letter dated 11.1.1994 referred to above, this application is disposed of with a direction to the respondents to take further action directly in accordance with the contents of that letter, within two months from the date of receipt of a copy of this judgment. MS Ashoka Jain, counsel for the respondents appeared later on."

5. From the above it is seen that paragraph 3 of the judgment is reproduction from the relevant portion of the letter dated 11.1.1994 issued by the Ministry of Human Resource Development, Department of Education, which has been taken on record.

6. The main contention of Shri E.X. Joseph, learned senior counsel for the review applicants in RA 49/97 was that the above directions were capable of being given more than one meaning and, therefore, the impugned judgment should be reviewed. It was also contended that Respondents (Original applicants) who were impleaded as Respondent No. 2 was Secretary, M/O Human Resource Development, Department of Youth Affairs and Sports instead of the Department of Education which was the nodal Ministry/Department and should have, therefore, been impleaded. It was also

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contended that there will be large financial implications by implementation of the judgment which also calls for review of the impugned judgment. R.A. has been filed after nearly 2½ years and delay has been sought to be explained.

7. We are unable to agree with the allegations made in the R.A. that there is an error apparent on the face of the judgment or patent mistake of law which justifies review of the impugned judgment or that R.A. is sustainable. It is settled position that review of a judgement cannot be done merely on the ground that the impugned decision is alleged to be erroneous on merits. Ample opportunities had been given to the respondents to present their case before the impugned order was passed and they could have taken steps to implead the Department of Education if they had so desired to explain their letter of 11.1.1994, which they are now attempting to do. It may also be noted that the respondents counsel had appeared later on the same day, although ^{and 13} no submissions were made. It is alleged by the Review applicants that the impugned judgment in OA-1526/90 was capable of being given more than one meaning; if so, it was for them to have sought necessary clarifications well in time before they implemented the order, by filing a miscellaneous application in accordance with law, which also they have failed to do. Admittedly, the judgment has been accepted and acted upon by the concerned Department after further examination. It is also relevant to note that CPs 43 and 44/96 have been disposed of. What is now sought is a belated review of the impugned order dated 31.8.94 after the respondents have accepted and implemented the order. The ground taken that the nodal Ministry is the

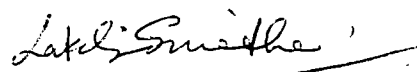
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Ministry of Human Resource Development, Department of Education and not the Department of Youth Affairs and Sports which had been impleaded as Respondent No.2 does not justify review of the impugned judgment. The Respondents i.e. Union of India and Delhi Administration had ample opportunities while the case was pending between 1990 till the order was passed on 31.8.94. to implead themselves and present their case which opportunity they did not avail of. It is, therefore, not open to them to say now that this is an error apparent in the record. We have also considered the grounds in RA 103/96 filed by Delhi Administration.

8. None of the grounds taken by the review applicants disclose any errors of law or any other sufficient ground as provided in Order 47, Rule 1 CPC under which alone a review application lies. Apart from that the Review Applications are hopelessly time barred without sufficient cause for the inordinate delay.

9. For the reasons given above RA 49/97 and RA 103/96 together with the miscellaneous application are rejected as not maintainable.


(Smt. Lakshmi Swaminathan)
Member (J)


(S.R. Adiga.)
Member (A)

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