

Central Administrative Tribunal
Principal Bench, New Delhi

R.A. No. 92/95
with M.A. Nos. 797 & 798/95
in O.A. No. 263/91

New Delhi, this the 5th Day of April, 1995

HON'BLE SHRI J.P. SHARMA, MEMBER (J)
HON'BLE SHRI B.K. SINGH, MEMBER (A)

1. Miss Surjeet Kaur
D/o Shri Arjun Singh
aged 24 years,
L.D.C. ESI Corporation
Regional Office,
Rajindra Place,
New Delhi
R/o C-234 Netaji Nagar
New Delhi
2. Miss Anita Kaushal
D/o Shri Sham Lal
aged 28 years
LDC, ESI Corporation
Regional Office
Rajindra Place N.Delhi
R/o E-156 Kidwai Nagar
New Delhi
3. Miss Sangeeta Suneja
D/o Late Shri L.R. Sujeja
aged 25 years
LDC ESI Corporation
Regional Office
Rajindra Place New Delhi
R/o K-IV-47 Old Double Storey
Lajpat Nagar
New Delhi - 24.
4. Miss Honey Bablani
D/o Shri S.S. Bablani
aged 24 years
LDC ESI Corporation
Regional Office
Rajindra Place New Delhi
R/o 388 DDA Flats
New Ranjit Nagar
New Delhi - 8.

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5. Miss Neeru Dewan,
S/o Shri Dayanand Dewan,
aged 23 years,
LDC, ESI Corporation,
Regional Office
Rajindra Place, New Delhi
R/o Pocket A-1-B-187-C,
Paschim Vihar, New Delhi.
6. Miss Kulbeer Kaur,
D/o Late Shri Ajit Singh,
aged 25 years,
LDC, ESI Corporation,
Regional Office, New Delhi
D-142(B) Pateh Nagar,
Tilak Nagar, New Delhi-18.
7. Miss Sangita Grover
D/o Shri Jagan Nath Grover
LDC, ESI Corporation,
Rajindra Place, New Delhi.
6/5, Subhash Nagar,
New Delhi - 27.
8. Miss Usha Pawar,
W/o Shri J.S. Pawar,
LDC, ESI Corporation,
Regional Office, New Delhi
795/Sector-37, Arun Vihar,
NOIDA.
9. Miss Dayawati,
D/o Shri Banarsi Dass,
aged 26 years,
LDC, ESI Corporation,
Regional Office, New Delhi
315/25, Onkar Nagar B,
Tri Nagar, Delhi - 35.
10. Miss Nirmal Devi,
D/o Shri Ram Kishan,
aged 26 years,
LDC, ESI Corporation,
Regional Office, New Delhi
R/o Village Shahpur Garhi,
H.No.14 PO Nerela,
Delhi - 40.
11. Miss P.R. Kumary,
D/o Shri P.K. Raghavan,
LDC, ESI Corporation,
Regional Office, New Delhi,
R/o WZ -861, Naraina Village,
New Delhi - 28.



12. Miss Kala Devi,
D/o Shri Jeet Singh,
LDC, ESI Corporation
Regional Office New Delhi
R/o H.No.3397/1 Reger Pura,
Karol Bagh, New Delhi - 5.
13. Shri Ravi Oberoi,
S/o Shri R.K. Oberoi,
aged 23 years,
LDC, Regional Office,
ESI Corporation, New Delhi
C-41, Manas Vihar, CGHS,
Mayur Vihar, Phase-I,
Delhi - 92.
14. Shri Sumer Singh,
S/o Shri Maha Singh,
aged 23 years,
LDC, ESI Corporation,
Regional Office, New Delhi
Village Sawda Post,
Nizampur, Delhi-81.
15. Shri Kanwaljeet Singh,
Shri Pritam Singh,
aged 29 years,
LDC, ESI Corporation,
Regional Office, New Delhi
R/o M-52, HZ-106, Hari Nagar
Clock Tower, New Delhi-64.
16. Mohd. Kamal Parvez
S/o Shri Wazir Ahmed
aged 24 years,
LDC ESI Corporation,
Regional Office, New Delhi
R/o 1845, Wazir Bagh Street,
Turkman Gate, Delhi-6.
17. Shri Ramesh Kumar Gupta,
S/o Shri Sita Ram Gupta,
aged 24 years
LDC, ESI Corporation,
Regional Office, New Delhi,
R/o H.No.3570-B, Gali No.4,
Narang Colony, Tri Nagar,
Delhi - 35.
(By Advocate S. E. X. Joseph)

... Petitioners

1. The Union of India
1. The ESI Corporation through
its Director General,
Panchdeep Bhawan,
Kotla Road, New Delhi - 2.
2. The Regional Director
Regional Office,
ESI Corporation,
Rajindra Place,
New Delhi.
(By None)

... Respondents

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JUDGEMENT (ORAL)

HON'BLE SHRI J.P. SHARMA, MEMBER (J)

Miss Surjeet Kaur & others have filed this Review Application against an oral order dated 30th March, 1995. The review application has been ordered to be listed before this Bench under orders of the Hon'ble Chairman. The Bench has assembled today and heard the learned counsel Shri E. K. Joseph alongwith Shri N. Anresh for the review applicants. The facts leading to the judgement under review dated 30th March, 1995 are succinctly stated in the order itself. However, it is reiterated that all the 17 applicants filed the original application for the grant of the reliefs that direction be issued to the respondents to continue the applicants to discharge duties of L.D.C. and to regularise the appointment of the applicants. It is also prayed that the decision arrived at by the respondents on the basis of certain decisions and on that basis orders have been passed on the file to terminate the services of the applicants, the said orders be struck down.

2. The respondents have contested this application and stated that the applicants were appointed initially for a period of three months and laying down the conditions in the offer of appointment that their appointment is purely temporary on ad-hoc basis and likely to be replaced by the duly selected candidates sponsored by the Staff Selection Commission (S.S.C.). The original appointment letter filed by the applicants as Annexure-II with the original application is a photostat copy of one of the applicants but it is not easily decipherable. However, we could make out reading out of the same in the light of some of the decided cases of similarly situated employees.

(2)

3. The applicants or their counsel were not present on the date when the case was listed for hearing on merits. Shri G.R.Nair counsel for the respondents E.S.I.C. was present and he was heard. However, we purposely kept the matter pending till after lunch informing the counsel for the respondents E.S.I.C. that if the counsel for the applicants come, he will also be heard and thereafter a date may be given for him to reply the contentions which would have been placed by the counsel appeared for the applicants. This fact has also been mentioned in para No. 6 of the judgement.

4. The review applicants have grievance that they have not been heard and desired the review of the judgement on the grounds taken in this review application. We have heard Shri E.X.Joseph for the review applicant alongwith Shri N.Anresh. A review of an order lies under the provisions laid down under order 47 rule 1 C.P.C. It is provided that a judgement can only be reviewed if there is an error apparent on the face of it or any fresh evidence which after due diligence could not be procured by the petitioners at the time of hearing of the proceedings, can also be considered whether the finding given in the judgement needs review on account of that particular piece of evidence annexed with the review application and ^{thirdly} ~~hardly~~ on analogous ground.

5. The learned counsel for the review applicants has taken us to review application and in the ground No. 1 it is stated that all these applicants were appointed having been sponsored by Employment Exchange and that they were also put to certain tests and as they have been continuing since 1989 they were not appointed as a stop gap arrangement. This fact has already been considered by the Hon'ble Supreme Court in the judgement under review where the case of similarly situated employees were considered in a petition filed before the C.A.T. Principal Bench, the Tribunal having granted the relief by the

order dated 22nd September, 1991, Director General, E.S.I.C. went in appeal before the Hon'ble Supreme Court of India and in the civil appeal decided by the Hon'ble Supreme Court by its order dated 10th December, 1992 quashed the direction issued by the Tribunal and dismissed the original application filed before the Tribunal. It was observed in that judgement that the appointment of the respondents (applicants in original application) being made on the aforesaid express condition communicating to them at the time of their appointment that they cannot be regularised on the post of L.D.C. Thus the ground taken by the review applicants is barred by issue-estoppel as a decision had already been arrived at in the res and that cannot be subject to fresh decision and the applicants who were similarly situated as the petitioners who were respondents in the appeal before the Hon'ble Supreme Court of India cannot raise that plea being estopped by the findings of the Hon'ble Supreme Court of India in the case of similarly situated employees. The ground No. 2 & 3 referred to certain decided cases. A case is an authority in itself and when there is a case where similarly situated parties have been considered by the Hon'ble Supreme Court and a judgement has been delivered that is a binding fact. The various decisions cited in the grounds cannot in any way leave an occasion to re-interpret the findings given in the case of the Tirlok Chand (Supra).

6. The ground No. 6 is with regard to the distinction of the judgement of the Hon'ble Supreme Court in the case Tirlok Chand (Supra). We have read the offer of appointment given to one of the applicants before the learned counsel for the review applicants and also the judgement of similarly other situated/employees who had come to the Tribunal and their case was decided after the decision of the Hon'ble Supreme Court of India in the Tirlok Chand's case. A copy of the

judgement has been filed with the original application as annexure by the respondents and these are (i) 1383/93 titled as Ms. Sobha Rani & Anr vs. E.S.I.C. & Anr decided by the Principal Bench on 17th September, 1993 and (ii) OA No. 1326/93 titled as Smt. Vidya Gulati & Anr. Vs. U.O.I. & Ors decided by the Principal Bench on 17th September, 1993 and in those cases also the relief prayed for to continue in the appointment which was initially for a specific contractual period and was termed as ad-hoc, was disallowed.

7. We, therefore, find that there is no error apparent on the face of the judgement/^{under review} and no fresh evidence has been annexed with the review application nor there is another ground for reviewing the judgement. The Review Application is, therefore, not maintainable and is dismissed after hearing the counsel for the review applicants. Since the review application is dismissed the M.A. No. 798/95 for considering the review application without the copy of the judgement is allowed as we have already considered this review application alongwith original application filed by the review applicants in which original copy of the judgement is available. No costs. The interim order of status quo dated 30.1.91 is vacated.


(B.K. SINGH)
MEMBER (A)


(J.P. SHARMA)
MEMBER (J)

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