

Central Administrative Tribunal
Principal Bench

RA No. 20/2005

MA No. 1313/2005

in

OA No. 1173/2004

New Delhi, this the 21st day of July, 2005

Hon'ble Mr. V.K. Majotra, Vice Chairman (A)

Hon'ble Mr. Shanker Raju, Member (J)

1. All India Equality Forum
having registered office at
IV/N 20, Double Storey,
Lajpat Nagar, New Delhi
Through its Secretary General,
Shri Jagdish Rai Agarwal,
R/o II-B-4, Jai Narain Vyas Colony,
Bikaner.
2. Shri Jagmohan Singh,
S/o S. Tirath Singh,
R/o C-51, Fateh Nagar,
Jail Road, New Delhi.
3. Shri Mukesh Kumar Vashisshta,
S/o Shri Sajjan Lal,
R/o 22, Inderpuri,
Near Satya Nagar,
Jhotwara-Jaipur.
4. Shri Jaswant Lal Mali,
S/o Shri Khem Raj Ji Mali,
R/o 516/16,
House of Rampal Parihar,
Topdara, Ajmer.

-Review applicants

-Versus-

1. Union of India through
the Chairman,
Railway Board,
Rail Bhawan,
New Delhi.
2. Chief Works Manager,
North Western Railway,
Ajmer.
3. Director Pay Commission,
Railway Board,
Rail Bhawan, New Delhi.

20

4. The General Manager,
Baroda House,
New Delhi.
5. The General Manager,
North Western Railway,
Headquarter Office,
Jaipur.
6. The Chief Administrative Officer,
Diesel Component Works,
Northern Railway,
Patiala.
7. The General Manager,
Railway Coach Factory,
Kapurthala.
8. The Divisional Railway Manager,
North Western Railway,
Jaipur.
9. The Divisional Railway Manager,
North Western Railway,
Ajmer.
10. The Divisional Railway Manager,
North Western Railway,
Bikaner.
11. The Divisional Railway Manager,
North Western Railway,
Jodhpur.
12. All India Scheduled Caste
& Scheduled Tribe Railway
Employees Association,
Through its General Secretary,
171-B/C, Basant Lane,
Railway Colony,
New Delhi-110055.

-Respondents

Appearances: Shri N. Pandey, counsel for review applicants

Shri VSR Krishna and Sh. Rajinder Khattar, counsel
for official respondents.

Shri Vishvender Verma, counsel for private
respondents

Dr. S.P. Sharma, counsel for applicants in MA No.
1313/2005.

ORDER

By Mr. Shanker Raju, Member (J):

This Review Application has been filed against an order passed on 14.12.2004 whereby on the issue whether reservation would apply in restructuring effected by the Railways in Group 'C' & 'D' posts vide order dated 9.10.2003, having regard to dissenting views of Chandigarh Bench of the Tribunal in OA No. 124/PB/2004 as well as the decision of Lucknow Bench in OA No. 356/2004 in **K. Chandrasekhar vs. Union of India** and the decision of the Apex Court in **S.I. Rooplal vs. Lt. Governor of Delhi & Ors.**, JT 1999(9) SC 597, the matter was referred to a Larger Bench.

2. A Larger Bench has been constituted by the Hon'ble Chairman of the Tribunal and the matter is likely to be heard.

3. Applicant's counsel in review contends that decision of the Chandigarh Bench has taken into consideration the decision of Lucknow Bench and having regard to the decision of the Apex Court in **V.K. Aggarwal vs. Union of India**, it is further contended that the decision of the Chandigarh Bench of the Tribunal has been affirmed by the Punjab & Haryana High Court in CWP No. 3182/2005 on 3.3.2005 and having attained finality, as no stay has been accorded in SLP, it is contended that in CW No. 6090/02, High Court of Delhi in **Union of India vs. All India Non-SC/ST Railway Employees Association** vide an order dated 18.11.2003 upheld the decision of the Tribunal quashing para no. 10 which provided



reservation in restructuring. Further relying upon the order passed in SLP No. 11588/2003 in **Union of India vs. Pankaj Saxena & Anr.**, on 13.5.2005, it is stated that similar five SLPs have been dismissed.

4. In the above conspectus, it is stated that the decision of the Tribunal whereby the matter has been referred to Full Bench is per incuriam of the decision of the Apex Court and a prayer has been made to recall the same.

5. On the other hand, respondents' counsel vehemently opposed the contentions and stated that the scope of judicial review is very limited. In view of divergent opinion, the matter has been referred to Full Bench. Further, it is stated that in a review, no re-agitation of the matter and its re-examination is permissible. However, it is stated that the decision of the Chandigarh Bench of the Tribunal was available on 14.12.2004 whereas the decision of the Punjab & Haryana High Court, affirming the order of the Tribunal, was available only on 3.3.2005 and as an event subsequent cannot be a discovery of new material. As such, dismissal of RA is sought for.

6. We have carefully considered the rival contentions of the parties and perused the material on record.

7. At the outset, having regard to the decision of the Apex Court in **Union of India vs. Tarit Ranjan Das**, 2004(2) ATJ SC 190 and **Subhash vs. State of Maharashtra**, 2002 (1) SC (SLJ) 28, in review, matter cannot be re-agitated as the review has a very limited

scope under Section 22(3)(f) of the A.T. Act, 1985 and event subsequent to the order passed by the Tribunal cannot be taken into consideration.


8. Any error in law would not constitute a ground for review.

9. In our considered view, the decision of the Chandigarh Bench of the Tribunal was affirmed on 3.3.2005 whereas the decision of the Tribunal, under review, was rendered on 14.12.2005. As such, the aforesaid order was not available at the time of final arguments and passing of the said order. It is a subsequent event, which will not create a right in favour of the applicant to call for review.

10. Moreover, it is trite law that having attained finality, the decision of the High Court would be binding on us but as the Full Bench has already been constituted, law shall take its own course and this would be appreciated by the Full Bench on its consideration while hearing the matter.

11. Finding no scope of review, the RA is found bereft of merit and is accordingly dismissed.

12. In so far as MA No. 1313/2005 is concerned, the applicant in the said MA is not sure whether to be impleaded as applicant or respondent. In so far as intervention application is concerned, the same is not permissible under the rules but for want of clarity, the MA shall be taken up when the matter is adjudicated by the Full Bench and the OA is sent back to the Division Bench for disposal.


(Shanker Raju)
Member (J)

/na/


(V.K. Majotra)
Vice-Chairman