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CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH

**R.A.No.149/2005, M.A.No.1426/2005**  
in  
**O.A.No.2241/2004**

Hon'ble Shri Justice B. Panigrahi, Chairman  
Hon'ble Shri M.K. Misra, Member (A)

New Delhi, this the 28th day of **October, 2005**

Govt. of Delhi & Ors. (By Advocate: Sh. Ajesh Luthra)	...	Applicants
	Vs.	
Gurbaksh Singh (By Advocate: Sh. Arun Bhardwaj)	...	Respondent

**ORDER**

**By Justice B. Panigrahi, Chairman**

In this application, a prayer has been made by the contesting respondents to review the order dated 7.3.2005 whereby they were directed to consider the applicant's case for promotion to the next higher post of Wireless Officer.

2. The respondents stated in this application for review is that in the earlier recruitment regulation, Radio Technician having five years experience in the grade were eligible for being considered to the post of Wireless Officer vide resolution No.297 dated 25.7.1983 adopted by NCT of Delhi.

3. Upon restructuring and reorganization of Wireless and Communication system in Delhi Fire Service by NCT of Delhi, the post of Radio Technician was re-designated as Assistant Wireless Officer (Maintenance). The applicant is a Radio Technician. At best, he can claim for consideration to the post of Assistant Wireless Officer (Maintenance) and not Wireless Officer. It is also pointed out that while the post of Radio Technician is a Group 'C' post, the post of Wireless Officer is a Group 'A' post. Therefore, the direction issued to the respondents to

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consider the applicant's case for the post of Wireless Officer seems to be unworkable as per the hierarchy chart.

4. This application has been filed after expiry of the period of limitation of 30 days from the date of the order with an application under Section 5 of the Limitation Act for condonation of delay.

5. Mr. Ajesh Luthra, the learned counsel appearing for the review applicants has submitted that in this case since there was new discovery of facts which have far reaching effects on the final decision of the Tribunal, thus, the present Review Application is filed for review of the order passed.

6. The Delhi Fire Service department was taken over by the Government of NCT of Delhi from 10.11.1994. They are proposing to pass new Recruitment Rules. Pending such finalisation, they may not be asked to consider the applicant's case to the post of Wireless Officer.

7. Mr. Arun Bhardwaj, learned counsel appearing for the review respondents has submitted that there has been no discovery of new facts so as to be interfered with the order passed earlier.

8. The Delhi Fire Service has been taken over by NCT of Delhi since 10.11.1994. As per the recruitment Rules dated 29.3.1983, the applicant is entitled for consideration to the post of the Wireless Officer in place of retirement of Sh. B.L.Arora. The review applicants cannot withhold applicant's consideration for promotion to the next higher post for an indefinite period only under the guise of framing new recruitment Rules. In the absence of new Recruitment Rules, the applicant's case deserves to be considered as per the Recruitment Rules now in force. This aspect was also considered by the Tribunal while disposing of the Original Application. There has been no error

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apparent on the face of the record nor any discovery of new points subsequent to the decision.

9. The Tribunal has only directed to consider the case of the applicant to the next higher post of Wireless Officer. It shall not, however, disturb the service hierarchy maintained by the respondents. We find that the submissions made by Mr. Arun Bhardwaj, learned counsel, gains significant force. While considering the ambit and scope of Review Application, it has to be first noted if there is any error crept in the order which is manifest from the record.

10. We find that there is no error apparent on the face of the record. Under the garb of review, the matter cannot be once again re-examined as if it is a OA. Identical question appeared before the Hon'ble Supreme in the case of **SUBHASH v. STATE OF MAHARASHTRA AND ANOTHER**, AIR 2002 SC 2537. The Hon'ble Supreme Court in their celebrated judgment held as follows:

"3. The scope for consideration before the Tribunal was very limited. Inasmuch as this Court had found that the appellant did possess the necessary qualification as per the Rules and the Tribunal having found he was entitled for appointment in Original Application No.94/1995, there is no justification for the Tribunal to have reviewed the matter once over again, particularly, when the scope of review is very much limited under Section 22(3)(f) of the Administrative Tribunals Act, 1985 as is vested in a Civil Court under the Code of Civil Procedure. The Tribunal could have interfered in the matter if the error pointed out, is plain and apparent. But the Tribunal proceeded to re-examine the matter as if it is an original application before it. This is not the scope of review.

4. In that view of the matter, we think the order on review made by the Tribunal needs to be set aside. It is ordered accordingly. The order dated 27.3.1995 made by the Tribunal on the Original Application No.94./1995 shall stand restored. The appeal is allowed accordingly."

11. Similar view was taken by the Hon'ble Supreme Court in the case of

**UNION OF INDIA v. TARIT RANJAN DAS**, ATJ 2004(2) SC 190. It held:

"14. The Tribunal passed the impugned order by reviewing the earlier order. A bare reading of the two orders shows that the order in review application was in complete variation and disregard of the earlier order and the strong as well as sound reasons contained therein whereby the original application was rejected. This scope for review is rather limited and it is not permissible for the forum hearing the review application to act as an appellate authority in respect of the original order by a fresh and rehearing of the matter to facilitate a change of opinion on merits. The Tribunal seems to have transgressed its jurisdiction in dealing with the review petition as if it was hearing original application. This aspect has also not been noticed by the High Court."

12. Accordingly, in the aforesaid circumstances, there is no warrant to again interfere with the original order passed by the Tribunal dated 7.3.2005.

13. Accordingly, the Review Application and Miscellaneous Application for condonation of delay are dismissed.

  
(M.K. MISRA)  
Member (A)

/Rao/

  
(B. PANIGRAHI)  
Chairman