

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

RA NO. 246/2005
MA NO. 2277/2005
OA NO. 3072/2004

This the 10 day of August, 2006

HON'BLE MR. JUSTICE M.A.KHAN, VICE CHAIRMAN (J)
HON'BLE MR. V.K.AGNIHOTRI, MEMBER (A)

1. Smt. Vimlesh Pushkarna
W/o Sh. S.K.Pushkarna
3529B, Raja Park,
Delhi-110034.
2. Smt. Gurdeep Kaur
W/o Sh. R.P.Singh
19/10, Tilak Nagar, Delhi.
3. Smt. Saroj Dhall
W/o Sh. Sunil dhall
WZ-43A, Rattan Park,
New Delhi-110015.
4. Sh. Parti Pal Singh
S/o Sh. G.S.Premi
E-5C, Sudershan Park,
Moti Nagar, New Delhi-110015.
5. Smt. Neelam Dewan
W/o Sh. A.K.Dewan,
AD-29B, Power Apartments,
Pitampura, New Delhi-110088.

(By Advocate: Sh. Susheel Sharma)

Versus

1. Union of India
through the Secretary,
Ministry of Defence,
South Block, New Delhi.
2. Director General of Ordnance Services (OS-20)
MGOs Branch,
Sena Bhavan,
Army Headquarters, DHQ PO,
New Delhi-110011.
3. The Commandant,
Central Ordnance Depot,
Delhi Cantt-110010.
4. CSO (A)
Personal Officer (Civ)
Establishment (NI) Branch,
Central Ordnance Depot,
Delhi Cantt-110010.

(By Advocate: Sh. D.S.Mahendru)

ORDER

By Hon'ble Mr. Justice M.A.Khan, Vice Chairman (J)

Applicants have filed this application for review of the order dated 16.8.2005 passed in OA-3072/2004 along with the application filed for condonation of delay as the review petition has not been filed within 30 days as required under rules. The contention of the applicant is that at the time of hearing of the case, the applicants were not aware of an order of this Tribunal dated 14.2.2003 passed in OA-1218/2002 Rajinder Kumar Pareek and others vs. Union of India and others. Therefore, the same could not be cited to support their case. It is submitted that by the said order relief similar to the relief claimed by the applicant was granted to the applicants in this case. It is submitted that the finding of this Tribunal about the pay scale in which the first and second financial upgradation under ACP Scheme were to be granted is also not correct. It is submitted that the principles of law laid down in the judgment of Sansar Chand Atri vs. State of Punjab and another (2002) 4 SCC 154 and State of Gujarat vs. Sh. Ambica Mills (1974) 4 SCC 656 has also not been taken into consideration and the judgment in the case of State of Haryana and others vs. Haryana Civil Secretariat Personal Staff Association JT 2002 (5) SC 189 in fact supported the contention of the applicant. According to the applicant, following questions arise for consideration of the Tribunal:

1. Whether the applicants being graduate Data Entry Operators (DEOs) deserve to be granted the Pay Scales applicable to DEO Gr.'B' w.e.f. 1.1.1986 with consequential benefits in view IV CPC recommendations, *And*
2. Whether the two Pay Scales of Rs.1350-2200 and Rs.1400-2300 meant for DEO Grade 'B' and 'C' respectively once merged into a new revised common/single Pay Scale of Rs.4500-7000, pursuant to the recommendations of the Fifth Central Pay Commission that DEO Gr.'B' in the Pay Scale of Rs.1350-2200 (pre-revised) should be granted the Pay Scale of Rs.1400-2300 (Pre-revised), can be assumed to have been further segregated the DEOs of Grade 'B' and 'C' (as they were before merger) with an intention to further revise the Pay Scale of Rs.4500-7000 to the Pay Scale of Rs.5000-8000 of DEO Grade 'C' only (as it stood before merger)."
2. The review application has been contested by the respondent. It is stated that there is no error in the order on the face of the record and all the submissions of applicant were taken into consideration while deciding the case. It is also denied that the judgment cited supports the case of the applicant.
3. In the rejoinder applicant has reaffirmed their allegations.

Nb

4. The scope of review is not very wide. The principles which govern the review of a judgment in a civil suit also apply to review of the decision of the Tribunal. Order 47 Rule 1 of the Civil Procedure Code which applies to the civil suits provides that a person aggrieved by a decree or order of the court from which an appeal is allowed but has not been preferred or against which no appeal is allowed and who

- (i) from the discovery of new and important matter which after exercise of due diligence was not within his knowledge or could not be produced by him at the time when the decree was passed or order was made or
- (ii) on account of some mistake or error apparent on the face of the record or
- (iii) any other sufficient reason desires to obtain a review of the decree passed or order made against him, may apply for a review of the judgment.

5. The review or an order of this Tribunal as such is permissible only in abovementioned three situations and not otherwise. The review cannot be treated to be an appeal and Tribunal cannot assume the jurisdiction of an appellate court to hear the review as an appeal against its own order. The Hon'ble Supreme Court in the matter of

Union of India Vs. Tarit Ranjan Das, 2004 SCC (L&S) 160 observed as under:-

“13. 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. The 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 order 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 an original application. This aspect has also not been noticed by the High Court”.

6. In the present case the first contention of the applicant is that an order of this Tribunal in the case of Rajinder Kumar Pareek (supra) was not in his knowledge and that in the said case relief was granted to similarly situated persons. Of course, if the order of the this Tribunal by mere reading and without any further argument on the part of the parties covers the case of the applicant it may be a discovery of new material which according to the applicant was not in his knowledge when the order was passed. We have no reason to believe that this order of co-ordinate bench was ~~not~~ within the knowledge of the applicant ~~so~~ their contention will be covered by clause (i) mentioned

in para 4 above. In review petition it will not be appropriate for us to hold in the present proceeding that the applicants are similarly situated/circumstanced persons and may be given benefit of the order of co-ordinate bench. This question requires consideration in the light of the order of this Tribunal dated 14.2.2003. The order of this bench to that extent requires review and rehearing.

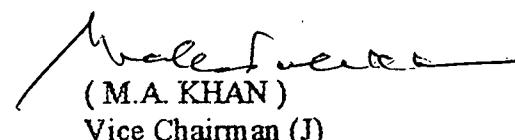
7. As regards the second contention of the applicant as to whether the applicants were entitled to first financial upgradation under ACP Scheme the same was discussed in the order and the finding was recorded. That same question cannot be reheard in the review application as if we are hearing an appeal against the order.

8. For the reasons stated above, we allow the review application partly and recall the order of this Tribunal dated 16.8.2005 for rehearing the parties to the limited question whether the applicant can be given the benefit of the order of the co-ordinate bench dated 14.2.2003 in the case of Rajinder Kumar Pareek (Supra). No other question shall be allowed to be raised and decided.



(V.K.AGNIHOTRI)
Member (A)

'sd'



(M.A. KHAN)
Vice Chairman (J)