

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

R.A.No.248/2005
in
O.A.No.2642/2004

Hon'ble Shri Justice B. Panigrahi, Chairman
Hon'ble Smt. Chitra Chopra, Member (A)

New Delhi, this the 30th day of August, 2006

Smt. Gurbax Kaplash Applicant

(Applicant in person)

Vs.

Delhi Administration and Others ... Respondents

(By Advocate: Ms. Simran proxy for Smt. Avnish Ahlawat for Rs-1 & 2; Shri S.C. Gupta for R-3 and None for R-4.)

O R D E R

By Justice B. Panigrahi, Chairman

This is an application for review of the order dated 21.9.2005 passed in OA No.2642/2004. It has been stated that certain error had been crept in the order passed by this Tribunal as a result of which, serious prejudice shall be caused to the applicant. It is stated that in the order dated 21.9.2005, the facts stated in Paragraph 4.29 to 4.35 of the OA were not taken into consideration. Therefore, being such error manifest on the face of the record, the order dated 21.9.2005 may be reviewed.

2. It is worthwhile to mention here that the above OA was registered on account of Tribunal's directions passed on 29.10.2004 to convert the RA No.200/2004, which was filed by the applicant in August, 2004, into OA.

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3. The facts of the case briefly stated are as follows:
4. The Review Petitioner earlier had filed a CW No.313/78 before the Hon'ble High Court of Delhi which was on transfer to this Tribunal, registered as T.A.No.172/1987. The same was decided by this Tribunal on 17.7.1990. Against the said order, the applicant filed RA No.112/1990 which was disposed of as follows:

“3. In the instant R.A., the review applicant has mentioned a number of grounds in support of her prayer for review of the judgement. Her main ground is that she had filed a petition and some documents with it on 16.5.90, which do not appear to have been taken into consideration as these are neither available on the file of the case, nor the judgement makes any mention of this petition/documents. The oral arguments in T-172/87 were heard and concluded on 15.5.91 therefore, the petition filed on 16.5.90 and its conclosures could not be considered after the hearing of the case had been concluded. The order sheet of the case does not show that the petitioner was allowed to file any additional documents. The petition dated 16.5.90 also does not show that the documents filed with the petition could not be produced by the petitioner if necessary diligence had been exercised before that date. This civil writ petition, which was the subject matter of T-172/87 came on transfer to the Tribunal on 12.10.87 and notice had been issued and served on the petitioner returnable for 16.11.87. From 16.11.87, when the petitioner was represented, and 15.5.90 when the arguments were heard and concluded, no prayer had been made by the petitioner for filing any documents. We are, therefore, of the considered view that this is not a sufficient ground for review of the judgment. The other grounds are either not relevant as they relate to the facts of the case in T.A.527/85, or seek a reappraisal of the material on record, which is not to be done in a Review Application. We find no error apparent on the fact of the judgement.

4. In view of the above, we find no merit in this Review Application, which is hereby rejected.”

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5. The aforesaid order was challenged by the applicant before the Hon'ble Supreme Court through Special Leave to Appeal (Civil) No.11069/91 and it was dismissed by the Hon'ble Supreme Court vide Judgment/order dated 28.9.1990.

6. Thereafter, the applicant filed another OA No.1839/2000, which was also dismissed on 11.7.2001 by observing as follows:

"4. Applicant now contends that respondents have issued a tentative list of Vice Principals vide their letter dated 13.2.97, in which they have distributed the final seniority list of Head Mastresses dated 6.4.77 and brought down Smt. Sarla Kapoor from Sl. No.14 to between Sl. No.33 and 34. It is further stated that some of Smt. Kapoor seniors in the aforesaid list dated 13.2.97 were shown junior to her in an earlier seniority list dated 18.2.88, and on that basis applicant wants her own seniority to be placed above Smt. Sarla Kapoor.

5. Applicant's claim for placement above Smt. Sarla Kapoor in the seniority list of Head Mistresses was specifically considered by the Tribunal and rejected by its order dated 17.7.90 R.A. No.112/90 filed against that order was rejected on 28.9.90, and SLP No.11069/91 filed in the Hon'ble Supreme Court against those orders was likewise rejected on 26.9.91.

6. Thus, in so far as applicant's claims for seniority above Smt. Sarla Kapoor is concerned, the same has been considered and decisively rejected. We are bound absolutely by those decisions and it is now not open to us to readjudicate applicant's claim for seniority above Smt. Sarla Kapoor, even if, as contended by applicant, Smt. Sarla Kapoor's own seniority has been altered relative to certain others.

7. It is also not denied that applicant has retired on superannuation. The OA is dismissed. No costs."

7. Again the applicant filed another Review Application No.289/2001 in OA 1839/2000, which was dismissed by this Tribunal on 21.8.2001. The applicant thereafter, challenged the order passed by this Tribunal in the main OA No.1893/2000 dated 11.7.2001 by filing a Writ Petition No.6081/2001 before the

Hon'ble High Court of Delhi. The Hon'ble High Court of Delhi vide Judgement dated 14.10.2003, dismissed the Writ Petition with liberty to file a Review Application before the Tribunal for the purpose of removal of errors in the order dated 11.7.2001. Consequent upon the aforesaid direction, the applicant filed a Review Application No.363/2003 in T.A.No.172/1987 which was dismissed as withdrawn vide order dated 1.7.2004 with liberty to file a fresh RA in OA No.1839/2000 instead of T.A.No.172/1987. We also notice that earlier the applicant had also filed OA No.817/1998, which was dismissed on 23.4.1999 and thereafter CP No.123/2000 filed in OA 817/1998 was also dismissed.

8. The applicant has claimed that her position in the seniority list was improperly arranged. She retired as Vice Principal from Govt. Girls Secondary School, Karol Bagh, New Delhi. She was promoted as Headmistress, Middle School vide order dated 26.9.1960 and joined the post on 03.10.1960. The promotion order was on the basis of seniority-cum-fitness but her seniority in the grade of Headmistress was not fixed as per the extant rules. Later on the administration of all Middle Schools along with the staff under MCD was transferred to Delhi Administration on 01.07.1970. Thereafter, seniority list was prepared and circulated from time to time to candidates for inviting the objections. The final seniority list was circulated on 6.4.1977 which was the subject matter of challenge under various OAs filed by the applicant which have already been decided by this Tribunal.

9. All the above RAs and OAs are revolving round on the same facts time and again. The seniority list prepared and circulated in 1977 was sought to be challenged in TA No.172/1987 and this Tribunal as well as Hon'ble High Court and the Hon'ble Supreme Court dismissed the applicant's prayer. The applicant

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has been filing Original Applications and Review Applications one after another on the same subject matter.

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 examined as if it is a new 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



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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. In view of the above discussion, at the least the aforesaid aspects lead to the irresistible conclusion that the repeated review applications and OAs on the same cause of action is a sheer abuse of process of law and deserve to be dismissed with exemplary costs. But we refrain from imposing any cost at the present moment. Accordingly, the RA is dismissed.


(SMT. CHITRA CHOPRA)
Member (A)


(B. PANIGRAHI)
Chairman

/Rao/