

**CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH**



**Review Application No.021/002/2021
In
Original Application No.021/00252/2020**

HYDERABAD, this the 26th day of March, 2021

Hon'ble Mr. Ashish Kalia, Judl. Member
Hon'ble Mr. B.V. Sudhakar, Admn. Member

Rooplal Sunil S/o Rooplal Shanker,
Aged about 27 years, Occ : Unemployee,
Gr. 'C', R/o 8-4-369/253, Banjaranagar,
Borabanda, Hyderabad.

...Applicant

(By Advocate : Mr. J. Sudheer)

Vs.

- 1.Union of India,
Rept. by its Joint Director (Recruitment),
ESIC, Head Office, Adarshnagar, Hyderabad.
2. The Regional Joint Director,
ESIC, Head Office, Adarshnagar,
Hyderabad.
- 3.Banothu Venkateswarlu, S/o and age not known,
The Regional Joint Director,
ESIC, Head Office, Adarshnagar, Hyderabad,

....Respondents

(By Advocate : Mr.N.Srinivasa Rao, SC for ESIC
Mr.K.R.K.V. Prasad for R-3)

ORDER (IN CIRCULATION)**(Hon'ble Mr. B.V.Sudhakar, Administrative Member)**

2. The RA is filed seeking review of the judgment delivered by this Tribunal in OA 021/002/2021, dt. 22.10.2020. The operative portion of the order is as under:

“7. It is not under dispute that the applicant appeared for the examination held for selection to the post of Stenographer advertised by the respondents. The applicant passed in the written examination held on 14.07.2019 and got 133.25 marks against the maximum of 200 marks. The grievance of the applicant is that 3rd respondent, who was selected against ST quota, got only 109 marks. The claim of the applicant is that since he is meritorious, he should be selected. However, the facts of case indicate that the applicant, while making his application online, has shown his status as ‘Unreserved’. Therefore, the respondents have considered him against Unreserved category and he could not be selected for the said category. However, the applicant after appearing at the Phase-I test, started representing to the respondents to change his community status from Unreserved to ST category. The rule at Column 6(e) of recruitment notification dated 01.03.2019, against which the applicant appeared in the examination, clearly states that once an application is submitted, it cannot be modified. Therefore, utmost care has to be taken to fill up an application form. There can be no change in the community once the examination process has been initiated. The last date for submission of applications was 15.04.2019. After the said date, one cannot ask for change of community. Therefore, the request made by the applicant is against the condition laid in the notification. Xxxxx

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8. *The respondents also cited the judgments of the Hon'ble Supreme Court in Bhupender Singh and others Vs. State of Punjab & Others (2005 SCC 262) and Shanker K Mandal & Others Vs. State of Bihar & Others (2003 9 SCC 519, which squarely apply to the case of the applicant. The applicant states that it is an inadvertent mistake. The examination is a competitive examination wherein candidates from all over the country appear. The conditions of the notification have to be strictly followed in order to ensure that there is fairness in selection. Any relaxation of the conditions would lead to grievances to other candidates, who made similar mistakes and could not come over to the Tribunal. Therefore, by considering the case of the applicant, the Tribunal would in a way do injustice to other candidates, who had similar issues while filling up the application for selection to different posts advertised by the respondents. Admittedly, the case of the applicant is not supported*

by the rules and law. Hence, we do not find any merit in the OA which calls for dismissal. Accordingly, dismissed. No order as to costs.”



3. As no hearing is considered necessary, the Review Application is being disposed under circulation as per Rule 17(3) of the C.A.T. (Procedure) Rules.

4. When the OA came up for hearing on 20.10.2020, the learned counsel who appeared on behalf of the learned counsel for the applicant was directed to make the submissions. Without doing so, short adjournment was sought and the matter was accordingly directed to be posted on 22.10.2020. While granting adjournment, it was orally observed by the Bench that since the matter pertains to employment, it would be heard and decided on the next occasion. Despite that, when the matter came up for hearing on 22.10.2020, again an attempt was made to seek adjournment, which this Bench was not inclined to accede to. Respondents have filed a detailed reply in the OA. We heard the learned counsel and perused the pleadings on record in depth and decided the cases on merits.

5. The applicant may not have the urgency to get the case disposed as contended by him in the affidavit filed in support of the Review Application, but it is pertinent to note that the Administrative Tribunal has been constituted to deliver speedy justice in the most economical manner, so that litigants gain in the process, in the manner they deserve. Further, the very same applicant represented by the very same learned counsel filed another OA No.129 of 2021 wherein he was called for

document verification under OC category when he was listed at No. 1 in the waiting list. When the said OA came up for admission on 22.02.2021, the learned counsel for the applicant submitted that the relief was not sought properly in the said OA and therefore, sought permission to amend the OA with appropriate relief and on that ground, he sought adjournment. While granting permission as sought, considering the fact that the respondents would proceed further with the selection, which may result in deprivation of opportunity to the applicant, this Tribunal, keeping the urgency in view and in the interest of justice, directed the respondents therein to keep one post of Stenographer vacant pursuant to the notification dt.01.03.2019, till the said OA is disposed. Hence, the applicant and the learned counsel need to understand that the Tribunal is bound to ensure speedy justice as per the objective of the Tribunal, though they would not have done their home work well, as was seen in the OA No. 129 of 2021 cited.

6. We have gone through the averments in the Review Application in detail and we do not find any grounds warranting review of the order in OA. We stand by the verdict delivered in OA 252/2020 and reject the contentions made by the applicant in the Review Application. The Tribunal relied upon a judgment of the Hon'ble Supreme Court in regard to the principle laid down for following the mandatory instructions by the candidates in a selection process. The emphasis would be on the principle, which states that anyone who does not follow the instructions would not be eligible for selection/ examination. It is not for the applicant

to state as to how the law is to be applied, in a given facts and circumstances of the case. Fact remains that the applicant had committed a mistake while making his application vis-à-vis his communal status i.e. he marked his community as UR instead of ST. It was made abundantly clear in the notification that once an application is submitted, it cannot be modified. The applicant, who committed mistake in respect of such an important criteria, expects the respondents to favour him against rules/law. There is no error apparent on the face of the record in the order passed in the OA warranting review.

7. Further, a plea for review, unless the first judicial view is manifestly distorted, is like asking for the moon. A forensic defeat cannot be avenged by an invitation to have a second look, hopeful of discovery of flaws and reversal of result. [Northern India Caterers (India) Ltd. v. Lt. Governor of Delhi, (1980) 2 SCC 167]. Further, Hon'ble Apex Court in the case of ***State of W.B. vs Kamal Sengupta (2008) 8 SCC 612*** has held as under:-

“35. The principles which can be culled out from the above noted judgments are:

(i) The power of the Tribunal to review its order/decision under Section 22(3)(f) of the Act is akin/analogous to the power of a civil court under Section 114 read with Order 47 Rule 1 CPC.

(ii) The Tribunal can review its decision on either of the grounds enumerated in Order 47 Rule 1 and not otherwise.

(iii) The expression “any other sufficient reason” appearing in Order 47 Rule 1 has to be interpreted in the light of other specified grounds.

(iv) An error which is not self-evident and which can be discovered by a long process of reasoning, cannot be treated as an error apparent on the face of record justifying exercise of power under Section 22(3)(f).

(v) An erroneous order/decision cannot be corrected in the guise of exercise of power of review.

(vi) A decision/order cannot be reviewed under Section 22(3)(f) on the basis of subsequent decision/judgment of a coordinate or larger Bench of the tribunal or of a superior court.

(vii) While considering an application for review, the tribunal must confine its adjudication with reference to material which was available at

the time of initial decision. The happening of some subsequent event or development cannot be taken note of for declaring the initial order/decision as vitiated by an error apparent.

(viii) Mere discovery of new or important matter or evidence is not sufficient ground for review. The party seeking review has also to show that such matter or evidence was not within its knowledge and even after the exercise of due diligence, the same could not be produced before the court/tribunal earlier.”



6. In view of the above observations and the law laid down by the Hon'ble Supreme Court (*supra*), this Tribunal does not find any reason to review the order passed in OA. RA is accordingly dismissed, in circulation. No order as to costs.

(B.V.SUDHAKAR)
ADMINISTRATIVE MEMBER

(ASHISH KALIA)
JUDICIAL MEMBER

/evr/