

MA No. 291/956/2019 & MA No. 291/957/2019
(ORIGINAL APPLICATION NO. 291/84/2018)

CENTRAL ADMINISTRATIVE TRIBUNAL
JAIPUR BENCH, JAIPUR

MISC. APPLICATION NO. 291/956/2019
&
MISC. APPLICATION NO. 291/957/2019
(ORIGINAL APPLICATION NO. 291/84/2018)

Order reserved on 25.03.2021

DATE OF ORDER: 12.05.2021

CORAM

HON'BLE MR. DINESH SHARMA, ADMINISTRATIVE MEMBER
HON'BLE MRS. HINA P. SHAH, JUDICIAL MEMBER

Smt. Sunita Dua Wife of Shri Kishore Lal Dua, aged about 44 years, by caste Punjabi, resident of IV/24, Income Tax Government Colony, Jyoti Nagar, Jaipur (Raj.) presently working as Senior Hindi Translator in the office of Principal Chief Commissioner of Income Tax, Jaipur, Rajasthan.

....Applicant

Shri R.D. Tripathi, counsel for applicant (through Video Conferencing).

VERSUS

1. Union of India, through Secretary to the Ministry of Finance, Department of Revenue, North Block, New Delhi-110001.
2. The Chairman, Central Board of Direct Taxes, Official Language Division, Directorate of Income

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Tax (Exam & O.L.), 5th Floor, Mayur Bhawan,
 Cannaught Circus, New Delhi – 110001.

3. The Principal Chief Commissioner of Income Tax,
 NCR Building, Statute Circle, Jaipur, Rajasthan-
 302005.

....Respondents

Shri Gaurav Jain, counsel for respondents (through
 Video Conferencing).

ORDER

Per: DINESH SHARMA, ADMINISTRATIVE MEMBER

These M.As. are for allowing the applicant to make a correction in the reliefs prayed by her in OA No. 84/2018 which was decided in her favour by this Tribunal's order dated 06.09.2019. The applicant states that it was a typographical error. Instead of mentioning the date of promotion as 31.10.2003, it was wrongly typed 31.10.2013. The applicant had given the correct dates at other places (in the synopsis and in Para 4.3 of the OA) and the mistake in sub-para (i) of the relief sought (Para 8 of the OA) was an inadvertent clerical mistake. Since the decision of the Tribunal has reproduced this prayer in Para 1 of the Tribunal's judgment dated 06.09.2019, this MA has been filed to have this error in the OA corrected and the corrected position reflected in the final judgment.

2. The respondents filed a reply stating that this request cannot be accepted as it amounts to expanding the relief prayed by the applicant. After having prayed for grant of relief w.e.f. 31.10.2013 she is now asking for the relief from a date 10 years before that. The applicant had filed a Review Application (291/16/2019) which was dismissed as withdrawn (on 15.10.2019) with liberty to file an appropriate application seeking correction of the clerical error. This is not just a clerical mistake and the MA cannot now be allowed after the matter has been finally decided by this Tribunal.

3. The matter was heard through video conferencing on 25.03.2019. The learned counsel for the applicant produced a written argument note quoting various decisions (of CAT Kolkata Bench in **Manpuran Das and 50 Ors. vs. Union of India** decided on 19.06.2001, Hon'ble High Court of Delhi in **Babu Lal vs. Union of India** decided on 05.09.2001, Uttarakhand High Court in **Mahendra Singh vs. Uttarakhand and Ors.** decided on 10.08.2020) and Allahabad High Court in re **Km Mona Singh vs. Unknown** decided on 06.12.2005) in support of his

arguments. Our attention was specially drawn to Para 133 of the Allahabad High Court judgment (supra) where the Hon'ble High Court observed:

“the Court has power to permit amendment of pleadings and thereafter, make correction in the judgment, decree or order regarding accidental slip or omission. Such permission to amend the pleadings may be granted under Section 152, Code of Civil Procedure, itself, or in any case under Section 151 and 153, Code of Civil Procedure, read with Section 152, Code of Civil Procedure”.

4. The learned counsel for the respondents argued that there was no express provision in the Administrative Tribunals Act to permit such correction after a judgment was pronounced and the Tribunal need not necessarily adopt the procedure prescribed in the Civil Procedure Code and could follow its own procedure, taking into consideration principles of natural justice.

5. After going through the M.A. and its reply and after hearing the arguments, there is no doubt in our mind that there has been an obvious error. This was most probably due to lack of due diligence by those who prepared the O.A. and filed it before us without properly checking the correctness of a crucial date

mentioned in the paragraph containing prayers for relief. The applicant did not correct it before the final disposal of the case. We have gone through our order dated 06.09.2019 on this OA. Our order mentions both the dates (31.10.2003 and 31.10.2013), in the first paragraph. The operative portion of this order does not mention anything about the date of effect of our order with respect to the applicant and there is no ambiguity about what it intends to grant. We are repeating this operative portion (Para 6 of the order) here:

“6. In the result, the OA succeeds. The respondents are directed to extend the benefit of the OM of 14.07.2003 issued by the Ministry of Finance, Department of Expenditure, (Annexure A/1) to the applicant with all consequential benefits”

6. As such, there is no error in the order of the Tribunal to warrant its review. The respondents could have well given the applicant the benefit of the OM of 14.07.2003 (Annexure 1 of the OA), without looking at the date mentioned by the applicant in her OA. The said OM of 14.07.2003 gave benefit of higher pay scales to Hindi Translators of Central Secretariat Officers' w.e.f. 11.02.2003. Our order was to extend the same benefits to similar officers working in the

field units, following the decisions of other benches confirmed by Hon'ble High Court/Supreme Court. Under these circumstances, we could simply reject these M.As. stating that there is no error in our judgment and, therefore, no review can lie. The error was in the pleadings, and there is no express provision to correct it either in the CPC or in the Administrative Tribunals Act or Rules. However, we cannot ignore the fact that the applicant had to come before us with a Review Application first and now with these M.As. This, along with the fact that the respondents are opposing the request for correcting the error, is a clear sign that the respondents are not granting her the benefit from the dates of her actual promotion, but are insisting on granting it from the date of promotion wrongly mentioned in the relief-sought portion of the O.A.

7. In the light of the above circumstances, we intend to follow the dictum of the Hon'ble Allahabad High Court in the case of Km Mona Singh cited above. As clearly laid down in this judgment, an error can be corrected, under certain circumstances by allowing the pleadings to be corrected. The learned counsel for the respondents have argued that the error in the

judgment cited was in reporting a khasra number, while the error in the present case relates to the date from which a benefit is to be granted. We do not think that there is such a great distinction between the two cases. The applicant has sought to get the benefit from the date of her promotion. This date of promotion has obviously been typed wrongly in the relief clause. There is no reason why should she claim the benefit from any date other than the date of promotion. The respondents have not denied that her date of promotion was 31.10.2003. Therefore, any conclusion that the applicant sought the benefit from a date 10 years after her promotion and is now expanding her claim through this M.A., will obviously not be correct.

8. We therefore, taking into account the special circumstances of this case, in the interest of justice, allow these M.As., as an exception. This is not to be quoted as precedent in future, or to create any right to correct the pleadings after passing of final judgment, in every such case. After the correction in the O.A., similar correction will be carried out in our judgment dated 06.09.2019, to reflect the corrected

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text in the pleading (Paragraph 8 of the OA). Since the mistake was clearly on account of lack of due diligence by the applicant and his counsel, they would be liable to pay a cost of Rs. 5000/- (Rupees Five thousand only) before they are allowed to file the amended O.A. This would go to the C.A.T. Bar Association, Jaipur and would be used by them to provide legal assistance to poor litigants.

(HINA P. SHAH)
JUDICIAL MEMBER

(DINESH SHARMA)
ADMINISTRATIVE MEMBER

Kdr/Kumawat