

CENTRAL ADMINISTRATIVE TRIBUNAL

AHMEDABAD BENCH

R.A./29/95 in

O.A. NO.243/92 with MA/377/95~~**T.A. NO.**~~DATE OF DECISION 26-02-1996.Shri C.G.Desai

Petitioner

Party-inperson

Advocate for the Petitioner (s)

Versus

Union of India & Ors.

Respondent

Advocate for the Respondent (s)**CORAM**

The Hon'ble Mr. N.B. Patel

:

Vice Chairman

The Hon'ble Mr. K.Ramamoorthy

:

Member (A)

JUDGMENT

1. Whether Reporters of Local papers may be allowed to see the Judgment ?
2. To be referred to the Reporter or not ?
3. Whether their Lordships wish to see the fair copy of the Judgment ?
4. Whether it needs to be circulated to other Benches of the Tribunal ?

NO

Shri C.G.Desai
208 'KH' Type, Sector:19,
GANDHINAGAR- 382 019.

.... Applicant

(Party-in-Person)

VERSUS

1. Union of India
(through : Secretary, Dept. of Personnel,
Govt. of India, North Block,
New Delhi 110001.)
2. Shri M.A.Chitale
Secretary General ICID, Nyaya Marg,
Chanakyapuri,
NEW DELHI 110001.
3. Secretary, U.P.S.C. Dhoplur House,
Shahjahan Road,
NEW DELHI 110001.

.... Respondents

(DECISION BY CIRCULATION)

ORDER

R.A.NO:29 of 1995 in
O.A.NO:243 of 1992 with MA/377/95

Date : 26-02-1996.

Per : Hon'ble Mr.K.Ramamoorthy : Member (A)

The present Review Application has been filed seeking review of an order passed by this Tribunal on 19.1.1995, The review has been sought on the grounds of error apparent both in regard to facts and law.

The applicant was also given an oral hearing as sought for by him.

The applicant has stated that there were errors apparant in regard to facts as the Tribunal has not taken into account the following facts.

1. The Tribunal erred in accepting the version that Mr. ~~Pap~~dhye was not a member of D.P.C.
2. It ignored the fact of reversion of Mr. Chitale from the post of Secretary to State of Maharashtra.
3. It ignored the facts of UPSC accepting an incomplete and irregular application, without verification of vigilance angle and routine through the Department.

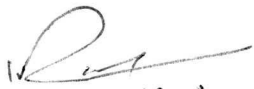
According to the applicant the Tribunal is also guilty of apparent error of law in not dealing with the specific plea of discrimination or in dealing with the general issue of duping indulged in by concerned persons/authorities.


As regards the error apparent in regard to facts, the Tribunal has specifically dealt with the issue of facts referred to by the applicant. Not only have these facts been specifically spelt out in the order, but the fact also remains, as admitted by the applicant himself, that the records were also perused by the Tribunal. During the hearing, the applicant himself has admitted that the fact of the respondent no. 2 being a Chief Engineer only, was sufficient for his being considered for the post of Chairman as the recruitment rules required only holding the post of Head of the Department. This fact is also mentioned in para 5 of the order. As to what aspects of non-observation procedure is to be condoned is a matter entirely within the realm of discretion of the recruitment authority, as per the judgment of the Tribunal and this is also specifically mentioned in para no. 7 of the order, as also the final judgment regarding relative merits of an applicant. Selection committee is a formally constituted committee and there is an official letter in record that Shri Ramaswamy Iyer, Secy. of the Ministry represented the Ministry in Selection.

R

As regards the question of apparent error ~~in the~~
~~face~~ of law, the discrimination issue can arise only if the
alleged facts were found to be of merit. In this R.A. the
applicant has for the first time referred to the issue of
public interest litigation in regard to UPSC not following
the procedural formalities. In this particular case, the
applicant has been pursuing a private litigation case and in
our opinion no case has been made out to uphold the
contention of any general ^{or particular} case of favouritism or nepotism ~~as~~
~~no such case has been made out.~~ The same applies also to the
² procedure to be adopted by the Tribunal in perusal of official
documents produced before it, as also its decision to accept
a particular version. M.A. filed by the applicant also does
not survive once it is filed after the decision of the
Tribunal.

In view of the above reasoning, since the applicant
has clearly failed to show error apparent on face of law
also and hence, R.A. is rejected. No order as to costs.



(K. Ramamoorthy)
Member(A)


(N.B. Patel)
Vice Chairman

ait.

7.6.97

The applicant Mr. C.G. Desai, had filed an O.A. 243/92 where he had ventilated the grievance regarding his non-selection as Chairman of the Central Water Commission and the selection of somebody else as Chairman. This was considered by the Tribunal and the same was dismissed by its order dated 19.1.95. A Review petition against this was filed in R.A. No.29/95 which was also rejected by order dated 26.2.96. He has now filed the present M.A. dated 25.6.97 purportedly seeking clarification of the order of the Tribunal in R.A. 29/95. On going through the M.A. however, I find that the applicant is re-agitating the same grounds which he says that he had raised in December 1995 i.e., before pronouncement of the order on the Review petition dated 26.2.96. This would seem to be in the nature of a second Review petition which is not permissible. However, place before Division Bench on 7.8.1997.


(V. Ramakrishnan)
Vice Chairman

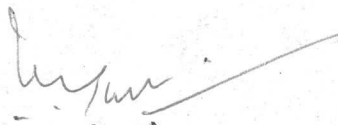
vtc.


Office Report

ORDER

.1997.

Heard the applicant in person. In O.A./243/92 he had sought for certain relief. This O.A. has been disposed of by the order of the Tribunal dated 19.1.1995. We also find that the applicant had filed an R.A. seeking review of this order which also came to be dismissed by this Tribunal by its order dated 26.2.1996. In the M.A./493/97 ^{what} what purports to seek clarification of the order on the reivew application, the applicant has taken the view that the judgement suffers from serious error both in regard to facts and law. What he asking for is virtually a second review and ~~re~~ re-hearing of O.A. It is clearly not permissable. If he is aggrieved by the order of the Tribunal he has to take appropriate steps and pursue his remedies elsewhere but not by a M.A. M.A./493/97 is dismissed.


(T.N.Bhat)
Member(J)


(V.Ramakrishnan)
Vice Chairman

ait.

Office Report

ORDER

Heard the applicant in person. In O.A./243/92 he had sought for certain relief. This O.A. has been disposed of by the order of the Tribunal dated 19.1.1995. We also find that the applicant had filed an R.A. seeking review of this order which also came to be dismissed by this Tribunal by its order dated 26.2.1996. In the M.A./493/97 ^{which} what purports to seek clarification of the order on the reivew application, the applicant has taken the view that the judgement suffers from serious error both in regard to facts and law. What he asking for is virtually a second review and ~~re~~ re-hearing of O.A. It is clearly not permissable. If he is aggrieved by the order of the Tribunal he has to take appropriate steps and pursue his remedies elsewhere but not by a M.A. M.A./493/97 is dismissed.

(T.N.Bhat)
Member(J)

(V.Ramakrishnan)
Vice Chairman

ait.