

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : LUCKNOW BENCH
AT LUCKNOW

R.A.No.54/2003 in
O.A.No.67/1998

Date of Order : 31-12-2003.

*Case caption
Case record no.
Order ref.
M.P. No.*
BETWEEN : *Asdok Kumar Singh, s/o Amar Jit Singh
Age about 39 years, R/o Singh
Amar Kumar Singh S/o Amar Jit Singh, Bhawan, Ganesh Ganj, 6
R/o Dingh Bhawan, Ganeshganj, P.S. Wazirganj, Lucknow
P.S. Wazirganj, Lucknow*

11/10 N.C. 2003

A N D

1. Industrial Toxicology Research Centre Lucknow, through Director, Mahatma Gandhi Marg, Lucknow.
2. Council of Scientific and Industrial Research, through Director General, Rafi Marg, New Delhi.
3. The Administrative Officer, I.T.R.C., M.G.Marg, Lucknow.

... Respondents

Counsel for the applicant : Shri K.R.Ahirwar.

Counsel for the Respondents : Mr.A.K.Chaturvedi.

C O R A M :

The Hon'ble Mr.S.K.Agrawal, Member (A).

By Circulation.

O R D E R

(Per Hon'ble Mr.S.K.Agrawal, Member (A))

The applicant has filed a very lengthy review application against the judgment dated 26th September, 2003 passed in O.A. No.67 of 1998 by this Court.

2. The applicant's prayer in the O.A. was to absorb him in a regular vacancy of Group-C in the Industrial Toxicology Research Centre, Lucknow, in the post of Typist, in pursuance of

the Casual Worker's Absorption Scheme, 1996, as also on the basis of his seniority as per the seniority list of casual workers of I.T.R.C., since the applicant did not apply for the said post in response to the notification issued by the respondents and hence could not be considered for selection.

3. A direction was given by this Tribunal to the respondents to inform the applicant whenever the next notification is issued and in case the applicant applies in pursuance to the said notice for such post, his case may be considered in accordance with the Scheme of 1990 read with 1995.

4. This R.A. has been filed by the applicant mainly on the following grounds - (i) The respondents had produced a false, forged and frivolous averment that prior to the Scheme of 1990, the appointment and selection has been made for the post in question, whereas, there was no Scheme prior to 1990.

(ii) Section 5 of the A.T.Act, 1985, authorises all Members of C.A.T. to function as a Bench of Single Member and exercise jurisdiction, powers and authority of the Tribunal in respect of certain classes of cases. The applicant has, at pages 16 and 17 of the R.A. stated eleven type of cases which can be heard by a Single Bench and the case of the applicant for absorption of casual labour, according to the applicant, does not figure in that list. The applicant has thus stated in the review application that this matter pertains to Division Bench and as such, it was decided wrongly by a Single Member Bench.

(iii) That this Court has wrongly accepted the contents of annexure-R/7 submitted by the respondents to the reply in the

O.A., wherein it has been stated that the applicant has not applied for the post and as such, he could not be considered, and as soon as the applicant applies in response to further notice, his case will be considered for the Scheme of 1990 read with 1995.

(iv) That annexure-R/7 enclosed to the reply in the O.A. is a notice issued for recruitment of SC Community candidates only, whereas the applicant belongs to the general category and as such, there was no question of him applying pursuant to the above notification.

(v) That this Tribunal erred to consider that in the year 1990, in pursuance of the directions of the Hon'ble Supreme Court, the respondents have not illegally included the casual workers working in the Institutes in different Schemes and Projects.

(vi) That this Tribunal erred to consider that in the O.A. filed before the Principal Bench of the Tribunal by the Casual Workers it was directed that the absorption scheme for casual workers be modified and it should include the casual workers working in different schemes as well as those engaged on contract basis through any outgoing agency.

(vii) That this Tribunal erred to consider the judgment of the Apex Court dated 10.8.1994 by which the judgment of the Principal Bench was affirmed.



(viii) This Tribunal erred to consider that the applicant was eligible for absorption as he worked continuously from 13.7.1984 and his services were discontinued retaining his juniors and outsiders were also given appointment in an arbitrary manner by the respondents.

(ix) This Tribunal erred to consider that the name of the applicant has already been ignored from 13.7.1984 to 1995 and the applicant's name was listed at serial no.12 of the seniority list, without considering his first engagement w.e.f. 13.7.1984 and 43 junior candidates have been absorbed arbitrarily by ignoring the seniority position of the applicant.

(x) This Tribunal erred to consider the established position that respondent no.1 has rejected the representation of the applicant on 20.7.1997, which was required to be considered by this Tribunal.

(xi) This Tribunal erred to consider that many workers since 1995 till 29.9.2003, i.e. the date of the judgment, have been selected and appointed, but the name of the applicant has been arbitrarily ignored by the respondents.

(xii) The Tribunal erred to consider the averment of the respondents that it is a settled legal position that the equality of equal is violative of Articles 14 and 16 of the Constitution of India, whereas there is no such provision in Article 14 and 16 of the Constitution of India.

(xiii) That this Tribunal had erred to consider that the respondents had decided the seniority position of the applicant

on 20.10.1997 and further decided that the eligible casual workers have to be considered for absorption by holding selection by a duly constituted selection committee as per normal procedure of recruitment prescribed for the post.

(xiv) This Tribunal erred to consider the averment of the respondents vide their letter dated 20.10.1997 that there is a ban from C.S.I.R. in engaging casual workers in any Project/Scheme and also that at present, there is no recruitment for engaging casual workers in any Project/Scheme.

(xv) The averments of the respondents made in the reply filed in the O.A. are all contrary to the judgments of the Apex Court dated 5.12.1988 and 10.8.1994.

5. I have very carefully gone through the review application filed by the applicant as also the judgment dated 26.9.2003 passed in O.A.No.67 of 1998 by this Court.

6. The applicant should not forget that re-hearing of the matter for detecting an error in the earlier decision and then correcting the same, do not fall in the ambit of review jurisdiction. The jurisdiction of a review application lies to correct any error which is apparent from the record. There is a clear distinction between an erroneous decision and an error apparent on the face of the record. While the first point can be taken up for correction only by the higher Courts, the latter can be corrected by this Tribunal if it is found that there is a mistake apparent on the face of the record in the judgment. After going through the grounds on which this R.A. has been filed, I find that at no point the applicant has stated any single error which is apparent on the face of the judgment *except certain minor points*.

7. The only point which requires to be looked into is ground no.(ii), as mentioned above, wherein the applicant has stated that this case does not fall within the jurisdiction of a Single Member Bench for deciding the case and that the case should have been taken up by a Division Bench. The applicant has in the R.A., stated 11 Classes of cases which can be taken up by a Single Bench, as per Rule 5 of A.T.Act, 1985.

8. After going through the rules of A.T.Act, 1985, it is, however, seen that the applicant has not stated the correct fact. Item no.14 of the list mentions cases relating to casual labour. In all, there are 20 type of cases which are listed in the Schedule of Single Member cases, as per Rule 5 of A.T.Act, 1985. It would, therefore, be seen that the jurisdiction of this Court very much covers the instant case of the applicant and the decision dated 26th September, 2003, in the O.A. has not been passed without jurisdiction.

9. At page 10 of the review application, the applicant has stated that vide paragraph 9 of the judgment dated 26th September, 2003, passed by this Court in the O.A., it has been observed that "we have considered all the facts of the case and the arguments put forth by the counsel for the parties", though the said judgment has been passed by a Single Member Bench.

10. On going through the said judgment dated 26th September, 2003, I find that the above submission of the applicant is correct. It is actually a typographical error. It is ordered that the same should be read as "I have considered all the facts of the case and the arguments put forth by the counsel for the parties." The said error thus stands corrected.



11. With regard to the other points taken by the applicant for filing the R.A., my observation remains that the same does not cover any point which is not correct in the judgment and the review application does not entail re-hearing of the case. If the applicant does not agree with any of the averments made by the respondents in the counter reply filed in the O.A., and he is of the opinion that the same are very crucial for the decision in his case, then the remedy is not to file a review application for correction of an error but it lies in an appeal before the higher court, who alone are empowered to see whether an erroneous decision has been given in his case.

12. In view of the above, I do not find any merit in the review petition filed by the applicant and the same is accordingly dismissed by circulation, with no order as to costs.


(S.K.Agrawal)
Member (A)

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