

**CENTRAL ADMINISTRATIVE TRIBUNAL
LUCKNOW BENCH**

**Review Application No.21/2007
In
Original Application No.400/2006
This the 01st day of June 2009.**

**HON'BLE MR. M. KANTHAIH, MEMBER (J)
HON'BLE DR. A.K. MISHRA, MEMBER (A)**

Union of India & Others. **Applicant.**

By Advocate: Shri Ajmal Khan.

Versus,

S. (Shallendra) Misra & Others **Respondents.**

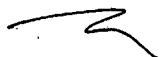
By Advocate: Shri A.C. Mishra.

ORDER

BY MR. M. KANTHAIH, MEMBER (J)

The applicant has filed this Review Application under Section 20 (3) (b) of the Administrative Tribunal Act, 1985 read with Rule 17 of the Central Administrative Tribunal (Procedure) Rules, 1987 for review of the order and judgment of the Tribunal Dt. 17.7.2007 passed in main OA No.400/2006 on the following grounds:-

- (i). That respondent have not placed the correct facts in the main OA by filing their detailed counter affidavit.
- (ii). The changed circumstances after the declaration of the written examination could not be placed before this Hon'ble Tribunal, including irregularity committed by the official while awarding marks.



(iii). The entire selection has been found to be irregular and appropriate notification was not issued as the matter was sub-judice before this Tribunal in O.A.No.152/2005.

(iv). On account of irregularities detected in the written test the said examination cannot be sustained.

(v). If the impugned order is not reviewed the same will jeopardize not only the interest of the railways but also the interest of those candidates who had answered the question of the written examination correctly and have not awarded the marks for the same.

2. The respondents, who are the applicants in main OA have filed the Counter affidavit, denying the claim of the revisionists with a prayer to dismiss the review petition.

3. Heard both sides.

4. The point for consideration is whether the applicant is entitled for the relief as prayed for.

5. The brief facts of the case are that the applicants no. 1 to 7 have filed main OA against the Respondent No. 1 to 4, who are the review applicants herein with a prayer to direct the respondent no. 1 to 4 to declare the date of viva voce for the selection for the post of T.C. and call them for the same and thereafter, send the applicants for requisite training for the post of T.C. in the next batch if they qualify the viva voce and further, promote them on the post of T.C. against existing vacancies if they are declared successful in training and other consequential benefits. After hearing both sides, this tribunal disposed of the OA on 17.07.2007 with a direction to the

Respondents No. 2 to 4 to fix the date of viva voce within a period of 2 months from the date a certified copy of this order is produced before them and to take the selection process to a logical conclusion within a period of 2 months thereafter and issue consequential order. It is also not in dispute that respondents have not filed their detailed Counter Affidavit in the main OA. It is also not in dispute that other O.A.No.152/2005 filed by Rama Kant Shukla Vs. Union of India & Others on the file of this Tribunal in respect of the subject matter of this OA, in which they challenged the impugned order dt. 24.2.2004 issued by the Respondent No.3 and prayed for a direction for holding of viva voce test and posting the applicants on the post of Ticket Collector against 33-1/3% quota as per the final result dated 22.4.2004 within a stipulated time as per rules and the same is relating to the subject matter of selection pertaining to this OA. But the said O.A.No.152/2005 was dismissed on 20.01.2009 after due contest.

6. By way of the review application, the applicants who are respondents in main OA have taken many grounds in respect of irregularity committed by the officers in awarding marks and also other irregularities detected in the written test and also stating that the entire selection has been found to be irregular, which they have not pleaded in the main OA. Whatever, grounds the applicants herein have taken for review the judgment and order of this Tribunal dt. 17.07.2007 is not at all based on the pleadings in main OA and by

way of this review they sought to consider such pleas, which is not within the scope of review as contemplated in Order 47 Rule-1 of CPC.

7. The scope of review is very limited to the extent of that by way of review one can seek the review of judgment and order in respect of any typographical mistake, error or calculation mistake and also, if any new fact has been discovered, which it was not in the notice of the party at the time of hearing of OA inspite of his diligence. But by way of the present review application, the applicant wants reappraisal of earlier discussions made by the tribunal while coming to its conclusion, which is not within the purview of review as contemplated under Section 22-(3) (f) of Administrative Tribunal Act, 1985. The grounds taken by the applicants in this review application for considering their claim in questioning the validity of the order Dt. 17.07.2007 falls within the scope of appeal but not under the scope of review as such, the claim of the applicant to consider his grounds raised in the review of the order is not at all maintainable and as such, the same is liable for dismissal.

In the result, Review application is dismissed. No costs.

AKM 01/07/09
 (DR. A.K. MISHRA)
 MEMBER (A)

MKA
 (M. KANTHAIAH)
 MEMBER (J)
 01.07.09

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