

**THE CENTRAL ADMINISTRATIVE TRIBUNAL
LUCKNOW BENCH**

**Review Application No.6/2009
In
Original Application No.409/2007
This the 19th day of March, 2009**

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

U.O.I. & Others Applicants.

By Advocate: Shri K.K. Shukla.

Versus.

M.K. Pal and Others Respondents.

By Advocate: None.

(Under Circulation)

ORDER

BY MR. M. KANTHAIAH, MEMBER (J)

The respondents in the main OA have filed this Review Application under Section 17 of Central Administrative Tribunal (Procedure) Rules, 1987 for review of the judgment and order Dt. 20.01.2009 in the main OA on the following grounds.

(i). This Tribunal heard the arguments of the applicants and private respondents and after considering their respective pleadings and hearing their arguments.


(ii). These applicants, who are official respondents did not file their counter Affidavit and further not argued the case.

2. The matter has been taken up under Circulation.

3. The admitted facts of the case are that the applicants herein, who field review are the official respondents No.1 to 3 in main OA

filed by Mahendra Kumar Pal and 4 others with a prayer to set-aside the order Dt. 3.08.2007 (Ann.-A-1) passed by Respondent No.3 under which private respondents 4 to 7 have been assigned seniority over the applicants by way of amendment in the seniority list dt. 28.05.2005 (Ann.-A-3) for the post of Diesel Assistant / Assistant Loco Pilot and also sought direction to the respondents not to disturb the seniority position of the applicants as contained in seniority list dt. 28.05.2005 (Ann.A-3). In the main OA, the private respondents i.e. Respondent No. 4 to 8 have filed Counter Affidavit but inspite of several adjournments and conditional order, the official respondents have not filed their Counter Affidavit and as such, the right to file Counter Affidavit by the official respondents have been forfeited. Thereafter, after considering the pleadings and after hearing the arguments of both the sides i.e. applicants and private respondents, this tribunal passed order on 20.01.2009.

4. When the official respondents did not file their Counter Affidavit and also not advanced their arguments this tribunal has no option except to hear the arguments of both the parties, who reported ready after completion of their respective pleadings. If the official respondents are interested in contesting the matter they would have filed their Counter Affidavit and argued the matter. But, without taking any of such steps, it is not open to the official respondents to say that there was no opportunity provided for them either for filing Counter Affidavit or for advancing their arguments. Further, there was also representation on behalf of the official respondents on each and every date and even on the date of hearing arguments in main OA and posted reserving the judgment. Thus, the claim of the



(3)

applicants does not fall within the purview of review as provided under Order 47 Rule 1 C.P.C. and as such, the same is liable for rejection.

In the result, Review application is rejected

R. K. Mishra 19/03/09
(DR.A.K. MISHRA)
MEMBER (A)

[Signature]
(M. KANTHAIAH)
MEMBER (J)
19.03.2009.
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AMIT/-

of order
order 19-3-2009
19-3-2009