

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
PATNA BENCH, PATNA  
R.A. No.38 of 1999  
(Arising out of O.A.111/96)

Date of order 19-10-2001

1. Umesh Prasad Yadav,
2. Md. Anwar Ansari,
3. Arun Kumar Singh,
4. Santosh Kumar Sinha,
5. Shirda Ray.

Applicants ..

-versus-

1. The Union of India through the General Manager, Eastern Railways, Fairlie Place, 17, Netajee Subhash Chandra Bose Marg, Calcutta.
2. The Chief Personnel Officer, Fairlie Place, 17, Netaji Subhas Chandra Road, Calcutta-1.
3. The Divisional Railway Manager, Eastern Railways.
4. The Senior Divisional Personnel Officer, Eastern Railways, respondent nos. 3 and 4 having their offices at Khagaul, District Patna.

.. Respondents

Counsel for the applicants .. Shri M.P.Dixit

Counsel for the respondents .. Shri G. Bose

PRESENT : Hon'ble Shri L.R.K.Prasad, Member (A)

Hon'ble Shri L.Jha, Member (J)

O R D E R

L.R.K.Prasad, Member (A) :

This application has been filed by the applicants for reviewing the order dated 7.10.1999 passed in O.A.111/96 (Annexure-A) on the grounds, as summarised below :-

- (i) Finding of the Tribunal in para 6 of the judgment with respect to notification dated 4.6.1987 which speaks of 128 substitutes is not correct. There is no mention about the number of posts (Annexure-3 of the said O.A.).
- (ii) The applicants had filed certain decisions and documents, as referred to in para 4 of the

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written argument but the same does not appear to have been considered before orders were passed. If those are considered, the result would be otherwise.

(iii) It is not a case that entire panel has been cancelled. If the panel has been formed and cancelled entirely, in that case only the principle of no right of empanelled candidate will be applicable. But in the instant case, out of 228 empanelled candidates (Annexure-4 of the O.A.), 128 candidates have been given appointment. Therefore, in the light of citations submitted in para 3 of written argument, cases of the applicants should have been considered.

(iv) Regarding para 11 of the order, it is stated that decision of Shankarshan Das case is not applicable with the case of the applicants in the light of submissions made through written argument.

(v) The whole exercise to prepare the list was undertaken in pursuance to policy-decision of the Railways to give employment assistance to local one son or dependent of a retiring or retired railway employee. The instructions of the Railway Board stated by the respondents are not applicable to the facts of the present case. The panel is alive and should be kept alive until the objective for which panel was prepared is achieved (as referred to in para 4 of the R.A.).

(vi) If the entire statements of the applicants had been taken into consideration, the result would have been otherwise. Therefore, the applicants have requested that entire written argument may be considered afresh in detail, whereafter appropriate order passed.

2. In view of the above, the applicants have requested for allowing the instant R.A. by reviewing the order of this Tribunal passed in O.A.111/96 on 7.10.1999.

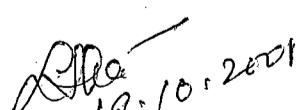
3. The above R.A. has been opposed by the respondents through written reply. According to respondents, it is not maintainable on the grounds as stated in the written statement. It is submitted that the orders dated 7.10.1999 in O.A.111/96 were passed taking into consideration the entire facts of the case including the citations submitted by the applicants during the course of argument. So far as question of 128 candidates are concerned, it is submitted by the respondents that out of 229 candidates, only 128 candidates were absorbed. They have also drawn our attention to the order dated 2.9.1998 passed in M.A.115/97.

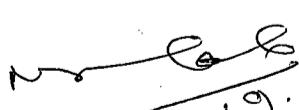
4. We have heard the learned counsel for the parties and perused the materials on record. At the outset, it is pointed out that it is well settled principle of law that review application is maintainable only if there is error apparent on the face of the record or if there is discovery of new evidence/document which could not be detected after due diligence. The merit of the case cannot be reopened through a review application.

5. We have examined the order passed in O.A.111/96 on 7.10.1999 in the light of facts stated above. The order passed in O.A.111/96 on 7.10.1999 was done after taking into consideration the full facts and circumstance of the case, submissions made and documents submitted by the parties with reference to the said O.A. The citations submitted by the applicants were also duly considered before the said order was passed in O.A.111/96.

6. It is true that notification dated 4.6.1987 (Annexur-3 of the said O.A.) does not speak of 128 substitutes, but in their written statement the respondents had clarified that the said notification was issued after obtaining sanction of General Manager for engaging 128 number of substitutes. In any case, this will not change the position. It may also be stated that the order passed in O.A.111/96 was delivered after taking into consideration the submissions made by the parties and materials on record including citations and documents filed on behalf of the applicants. So far decision in Shankarshan Das case is concerned, the position is very clear and we have already given our views on this. We do not agree with the submission of the applicants in R.A. that certain points have not been taken into consideration, which need to be considered afresh. As already pointed out earlier, review application is maintainable only if there is error apparent on the face of the record or if there is discovery of new evidence/document which could not be detected after due diligence. In our considered opinion, we had considered the pleadings of both the parties including cited documents before the order dated 7.10.1999 was passed in O.A.111/96. This case cannot be re-opened on merit through review application. The remedy lies somewhere else.

7. In view of the above analysis, we find no merit in the instant R.A. and the same is, accordingly, dismissed. However, the applicants are at liberty to move appropriate forum against the order dated 7.10.1999 passed in O.A.111/96, if so advised. No order as to the costs.

  
19.10.2001  
(L. Jha)  
Member (J)

  
19.10.01  
(L.R.K. Prasad)  
Member (A)