

CENTRAL ADMINISTRATIVE TRIBUNAL
BENCH AT MUMBAI

ORIGINAL APPLICATION NO. 582 /1996

Date of Decision:

16/12/96

Shri R.K. Patil & Others Petitioner/s

Shri R.P. Saxena Advocate for the
Petitioner/s

V/s.

Union of India & Anr. Respondent/s

Sst: R.R. Shetty & R.K. Shetty Advocate for the
Petitioner/s

ORIGINAL APPLICATION NO. 199
CORAM:

Hon'ble Shri B.S. Hegde, Member (J)

Date of Decision:

Hon'ble Shri P.P. Srivastava, Member (A)

Petitioner/s

(1) To be referred to the Reporter or not?

(2) Whether it needs to be circulated to the
other Benches of the Tribunal?

V/s.

B.S. Hegde
(B.S. Hegde)
Member (J)
Respondent/s

ORIGINAL APPLICATION NO. 199
CORAM:

Hon'ble Shri

Date of Decision:

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH, GULESTAN BUILDING NO. 6
PRESCOT ROAD, FORT, MUMBAI 400001.

O.A. NO. 582/1996

Dated this 11 day of December 1996.

CORAM : 1) Hon'ble Shri B.S. Hegde, Member (J)
2) Hon'ble Shri P.P. Srivastava, Member (A)

- 1) Shri R.K. Patil
Govind Nagar, Bldg. No. 23-A/16
3rd Floor, Sodawala Lane
Borivali (West)
Mumbai 400 092.
- 2) Shri K.K. Pappukutty
C/003 NIRANJAN
Shimpoli Road, Chikuwadi
Borivali (West)
Mumbai 400 092.
- 3) Shri P.S. Kurup
18 POORNIMA, C.S.D. Estate
Rifle Range, Ghatkopar (W)
Mumbai 400 086.
- 4) Shri G.V. Lonikar
K-4/128 Dadabhai Navroji Nagar
Opp: Petrol Pump, Jai Prakash
Road, Andheri (West)
Mumbai 400 053

(By Advocate Shri R.P. Saxena) ... Applicants

v/s

- 1) Union of India, through
The General Manager,
Canteen Stores Department
ADELPHI, 119, Maharshi Karve
Road, Mumbai 400 020.
- 2) Shri B. Pramanik
Asstt. General Manager (Accts)
Canteen Stores Department
ADELPHI, 119, Maharshi Karve
Road, Mumbai 400 020.

(By advocates Shri R.R. Shetty &
R.K. Shetty, CGSC)

... Respondents

ORDER

I Per : Shri B.S. Hegde, Member (J) I

The grievance of the applicants in this O.A. is that they have been denied the promotion to the posts of Accountant; therefore, they seek direction to the Respondents to include their names in the eligibility list prepared in the year 1985 for promotion to the posts of Accountant and declare that DPC should be held to consider promotion of the applicants as Accountant and they should be promoted from the date their juniors have been promoted in the year 1988 and the panel dated 15-12-1987 for the posts of Accountant should be amended accordingly, etc. All the four applicants have filed joint application and also filed a petition for condonation of delay on 24-6-1996 stating that though the cause of action arose in the year 1985 and the eligibility list dated 17.9.1985 for the promotion to the posts of Accountant was published, their names were not included in the eligibility list and they have come to know in the year 1995 that they passed the departmental test in the year 1982 and were eligible to be included in the eligibility list and that delay if any is on account of the respondents and not on account of the applicants.

2. The Respondents in their reply submitted that it is true that the applicants are not included in the select list of Accountants dated 17-9-1985 despite their having

completed Intensive Training Programme conducted by the Respondents to make all the participants in the departmental examination for the post of Accountant well-versed with the accounting procedure etc. Further, it is submitted that promotion to the post of Accountant which is a post in the scale of Rs. 1640-2900 is governed by the Recruitment Rules for Accountants which indicates that it is by promotion failing which by transfer on deputation. Promotions are given to persons working in the Canteen Stores Department holding ministerial posts in the scale of Rs. 330-560 with 3 years regular service in the respective grade and in higher posts subject to passing a departmental test. As per the Recruitment Rules, the applicants are required not only to complete intensive training programme, but also to pass the departmental examination. Though the applicants have completed the intensive training course and have been awarded Certificate of Merits; however, the applicants failed to pass the departmental examination for being promoted to the post of Accountant and therefore they are not included in the list of successful candidates/ eligibility list prepared by the Respondents in the year 1985, 1987 and 1995 respectively. The applicants have failed ⁱⁿ the departmental test in the year 1985; thereby their names have not been included in the list of successful persons. Further, though the eligibility list was published as back as 1985, the applicants have

filed this O.A. after a lapse of 11 years which is patently barred by limitation as the non-inclusion in 1985 is being raised in 1996, thereby the O.A. is required to be dismissed in limine.

3. Heard the learned counsel for the parties, Shri R.P. Saxena for the applicants and Ss: R.R. Shetty and R.K.

Shetty for the Respondents and perused the pleadings.

^{an} It is admitted fact that the applicants have not passed the departmental examination, thereby their names could not be included in the eligibility list. The contention of the applicants that after successful completion of intensive training and passing the departmental test, a certificate was awarded to the applicants, is misconceived. As a matter of fact, the certificates are awarded and issued only in recognition of completion of intensive training programme conducted by the

Respondents' office to make the participants well-versed with the accounting procedure of the department. The said certificates are issued to all the candidates whosoever attended the course. On the basis of the subjects covered/taught during the training to all the participants, a departmental test in accordance with the Recruitment Rules for the post of Accountant was conducted and the successful candidates were considered by the DPC for the post of Accountant as per the inter-se-seniority. As stated earlier, none of the applicants has passed the departmental test and as such the question of including

their names in the eligibility list does not arise. Besides that, the application filed by the applicants is admittedly a belated one and no satisfactory explanation is offered by the applicants in filing the belated application. In the result, the O.A. is devoid of merits and also the same is barred by limitation. Accordingly, we dismiss the O.A. both on merit as well as on limitation. No order as to costs.



(P.P. Srivastava)
Member (A)



(B.S. Hegde)
Member (J)

ssp.

CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH

R.P. NO.: 04/97 IN O.A. NO.: 582/96.

Dated this Monday, the 13th day of January, 1997.

CORAM : HON'BLE SHRI B. S. HEGDE, MEMBER (J).

HON'BLE SHRI P. P. SRIVASTAVA, MEMBER (A).

Shri R. K. Patil & 3 Others ... Applicants

Versus

Union Of India & Another ... Respondents.

Tribunal's order by circulation :

1. PER.: SHRI B. S. HEGDE, MEMBER (J) 1

The applicants have filed this review petition seeking review of the judgement dated 16.12.1996. We have gone through the review application filed by the applicants and in our view, the application can be disposed of by circulation as per Rule 17 (3) of the Administrative Tribunals Act, 1985. Even in the Review Application, the only contention made by the applicants is to give direction to the respondents to produce the records of 1985 examination for promotion to the post of Accountant to determine/decide the issue involved as to whether the applicants have passed or failed in the departmental examination.

2. It may be recalled vide our judgement dated 16.12.1996, on the basis of the pleadings, it was observed that the applicants are not included in the select list of Accountants dated 17.09.1985 since all the applicants have not passed the departmental examination. It was also

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observed that promotion to the post of Accountant is governed by the Recruitment Rules for Accountants which indicates that it is by promotion, failing which, by transfer on deputation. Promotions are given to persons working in the Canteen Stores Department holding ministerial posts in the scale of Rs. 330-560 with three years regular service in the respective grade and in higher posts subject to passing a departmental test. As per the Recruitment Rules, the applicants are required not only to complete intensive training programme but also to pass the departmental examination. Though the applicants have completed the intensive training course and have been awarded Certificate of Merits, however, the applicants failed to pass the departmental examination for being promoted to the post of Accountant and therefore, they are not included in the list of successful candidates/ eligibility list prepared by the respondents in the year 1985, 1987 and 1995 respectively.

3. In this review petition, the applicants have not stated anything more than what they have already stated and nothing is brought on record to show that they have passed the departmental examination despite that their names have not been included in the select list. It is a well settled principle that the power of review may be exercised on the discovery of new and important matter or evidence which, after the exercise of due diligence was not within the knowledge of the person seeking the review or could not be produced by him at the time when the order was made; it may be exercised where some mistake or error apparent on the face of the record is found; it may also be exercised on any analogous ground. No such ground is made

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out in this review petition. We are, therefore, of the view that the review petition filed by the applicants ^{is} are devoid of merits and the same is dismissed by circulation.


(P.P. SRIVASTAVA)

MEMBER (A).


(B. S. HEGDE)

MEMBER (J).

OS*

~~dt. 13.1.97
order/despatched
to A.P.M.C. President (S)
on 24.1.97~~

