

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH

Second Floor,
Commercial Complex,
Indiranagar,
BANGALORE- 560 038.

Dated: 2 MAR 1995

Review APPLICATION NO: 103 to 146/94 and 147 to 155/1994.

APPLICANTS:- Sri.M.H.Shivappa and forty three others.,

V/S.

RESPONDENTS:- Secretary, Ministry of External Affairs,
New Delhi another.

To

1. Sri.K.Subba Rao, Advocate, No.27, First Main, First Floor,
Chandrashekar Complex, Gandhinagar, Bangalore-560 009.
2. Dr.M.S.Nagaraja, Advocate, No.11, Second Floor, First Cross,
Sujatha Complex, Gandhinagar, Bangalore-560 009.
3. Sri.M.S.Padmarajaiah, Senior Central Government Standing
Counsel, High Court Building, Bangalore-560 001.

Subject:- Forwarding of copies of the Orders passed by the
Central Administrative Tribunal, Bangalore.

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Please find enclosed herewith a copy of the ORDER/
STAY ORDER/INTERIM ORDER/ passed by this Tribunal in the above
mentioned application(s) on 16-02-1995.

Issued on
2/3/95

[Signature]

9/c

[Signature]
for DEPUTY REGISTRAR
JUDICIAL BRANCHES.

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH

R.A. No.103 to 146/94 & 147 to 155/94

THURSDAY THIS THE SIXTEENTH DAY OF FEBRUARY 1995

Shri A.N. Vujjanaradhya ... Member [J]

Shri T.V. Ramanan ... Member [A]

1. Sri Shivappa, M.H.,
S/o Mahadevappa,
Aged about 27 years,
Working as Casual Employee,
Passport Office, Bangalore,
R/o Parvathi Nilayam,
Srinivasapur,
C.V.Ramanagar PO,
Bangalore-93.
2. N. Puttaraju,
S/o Narasimhaiah,
Aged about 34 years,
Working as Casual Employee,
Passport Office, Bangalore,
R/a No.42/1, 1st Cross,
Chikka Lakshmaiah Layout,
Dharmaram College PO,
Hosur Road,
Bangalore-29.
3. K. Suresh,
S/o A. Kannan,
Aged about 32 years,
Working as Casual Employee,
Passport Office, Bangalore,
R/a No.46, III Main,
Lingaiahnapalya,
Ulsoor, Bangalore-8.
4. K. Subramani,
S/o Kuttai,
Aged about 36 years,
Working as Casual Employee,
Passport Office, Bangalore,
R/a No.2, III Cross,
Sonnanhally,
Vivekanagar PO,
Bangalore-560 047.
5. A.N. Ramesh,
S/o A.N. Nanjundaiah,
Aged 29 years,
Working as Casual Employee,
Passport Office, Bangalore,
R/a No.424, Jakkur PO,
JakkurNew Extension,
Bangalore-64.



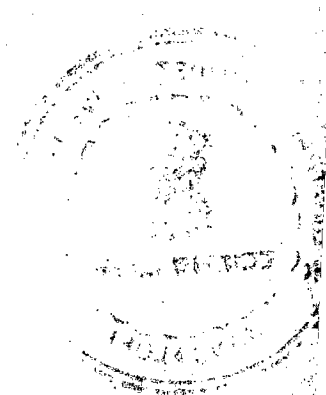
6. Udayakumar,
S/o C.P. Kandaswamy,
Aged about 25 years,
Working as Casual Employee,
Passport Office, Bangalore,
R/at No.2/2, Velumudaliar Road,
Bangalore.
7. Smt. B.N. Radha Bai,
D/o B.V. Narayana Rao,
Aged about 25 years,
Working as Casual Employee,
Passport Office, Bangalore,
R/at No.611, 8th Main,
10th Cross,
Kumaraswamy Layout,
Bangalore.
8. P.G. Mahesh Babu,
S/o P.S. Govindaraj Shetty,
Aged about 26 years,
Working as Casual Employee,
Passport Office, Bangalore,
R/a No.3, Velumudaliar Road,
Bangalore.
9. B.R. Venkatarama,
S/o Ranganna,
Aged about 31 years,
Working as Casual Employee,
Passport Office, Bangalore,
R/a Binnamangala,
Arisinakunte PO,
Nelamangala Taluk,
Bangalore.
10. Shafiq Ur Rahman,
S/o L. Abdul Hameed,
Aged about 27 years,
Working as Casual Employee,
Passport Office, Bangalore,
R/at No.18, C.No.1 Street,
Noah Street Cross,
Shivajinagar,
Bangalore.
11. R. Kumar,
S/o N. Ramanathan,
Aged about 30 years,
Working as Casual Employee,
Passport Office, Bangalore,
R/at No.16, Old No.4,
G.No.13 Street,
Jogupalyam,
Ulsoor, Bangalore.



12. Smt. Shaheena Banu,
Aged about 26 years,
D/o Mohammed Obeidulla,
Working as Casual Employee,
Passport Office, Bangalore,
R/at No.124, B, IIMain Road,
Bapujinagar,
Mysore Road, Bangalore.
13. Smt. A. Savithra Bai,
D/o C. Aganoji Rao,
Aged about 33 years,
Working as Casual Employee,
Passport Office, Bangalore,
R/at No.3371/A, V Cross,
1st Main Road,
Gayathrinagar,
Bangalore.
14. Smt. Hamsaveni,
D/o late P. Madurai,
Aged about 26 years,
Working as Casual Employee,
Passport Office, Bangalore,
R/at No.10/4, Madurai Building,
III Cross, ITC Main Road,
Cox Town, Jeevanahalli,
Bangalore.
15. K.R. Babu,
Father's name not given,
aged about 24 years,
Working as Casual Employee,
Passport Office, Bangalore,
R/at No.1, 'E' No.II Street,
shivajiroad Cross,
Shivajinagar,
Bangalore.
16. Smt. T.N. Uma,
D/o T.R. Narayanan,
Aged about 28 years,
Working as Casual Employee,
Passport Office, Bangalore,
R/at No.1 st Floor,
Narayanareddy Building,
Behind Canara Bank,
Marathahalli, Bangalore.
17. Smt. T. Pramila,
D/o P. Thammaiyanna,
Aged about 26 years,
Working as Casual Employee,
Passport Office, Bangalore,
R/at No.24, 8th Cross,
Jakkasandra Main Road,
Mariyamma Temple Road,
Malleswaram,
Bangalore.



18. Smt. Yashoda,
D/o B. Lakshmana,
Aged about 25 years,
Working as Casual Employee,
Passport Office, Bangalore,
R/a No.113/2, Munnekolala,
Varthur Road,
Marathalli PO, Bangalore.
 19. Smt. Ragina Anitha,
D/o Arumai Nathan,
Aged about 30 years,
Working as Casual Employee,
Passport Office, Bangalore,
R/No.113/2, Munnekolala Varthur,
Road, Marathalli PO,
Bangalore.
 20. K. Gururaja,
S/o Krishna Rao Katti,
Aged about 27 years,
Working as Casual Employee,
Passport Office, Bangalore,
R/at No.307, 9th Main,
II Stage, Rajajinagar,
Malleswaram West, Bangalore.
 21. Smt. L. Renuka,
D/o M. Lakshminarayanappa,
Aged about 22 years,
Working as Casual Employee,
Passport Office, Bangalore,
R/at No.69, 2nd West Cross,
L.N. Colony, Yeshwanthpur,
Bangalore.
 22. Smt. B Kavitha,
D/o Balakrishnan,
Aged about 22 years,
Working as Casual Employee,
Passport Office, Bangalore,
R/at No.79, Ramanagari,
HAI PO, Bangalore.
 23. Smt. Sujatha,
D/o Velayudhan,
Aged about 22 years,
Working as Casual Employee,
Passport Office, Bangalore,
R/at No.124, 4th Cross,
Saraswathipuram, Ulsoor,
Bangalore.
 24. Smt. Surya Jabeen,
D/o Maqsood Ali Khan,
Aged about 36 years,
Working as Casual Employee,
Passport Office, Bangalore,
R/at No.42 [Old 85], Nandidurg Road,
Benson Town, Bangalore.
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25. Smt. Rajani,
D/o M.R. Puttanna,
Aged about 27 years,
Working as Casual Employee,
Passport Office, Bangalore,
R/at No.38, New No.86,
Anthony Nicholas Street,
Ashoknagar,
Bangalore.
26. Smt. A. Mary,
D/o late M. Anthony Dass,
Aged about 27 years,
Working as Casual Employee,
Passport Office, Bangalore,
R/at No.20, 6th 'G' Cross,
Jokpalya, Ulsoor,
Bangalore.
27. Sri R. Ravindran,
S/o Ramaiah, K,
Aged about 22 years,
Working as Casual Employee,
Passport Office, Bangalore,
R/at No.17/4, Chinnappa Colony,
Doorvaninagar, Vijanapura,
Bangalore.
28. Smt. B.S. Prabha,
D/o Sathyanarayana Rao,
Aged about 20 years,
Working as Casual Employee,
Passport Office, Bangalore,
R/at No.9, B No6th Street,
Milkman Street,
Ulsoor, Bangalore.
29. Smt. S. Shanthi,
D/o Swaminathan,
Aged about 24 years,
Working as Casual Employee,
Passport Office, Bangalore,
R/at No.10, 'A' Type Kattally BDA
Quarters, Shivan Shetty Gardens,
Bangalore.
30. Smt. R. Jayasree,
D/o Ramaswamy,
Aged about 22 years,
Working as Casual Employee,
Passport Office, Bangalore,
R/at No.11/1, 4th Cross,
Sudhamanagar,
Bangalore.



31. G. Sellambu Selvam,
Aged about 24 years,
S/o N. Gajendra,
Working as Casual Employee,
Passport Office, Bangalore,
R/at No.35, Opp:Reback Ind.,
Old Madras Road,
Thambuchettyapalya,
Virgonagar,
Bangalore.
32. C.H. Manoj Kumar,
S/o Kunhia Raman,
Aged about 23 years,
Working as Casual Employee,
Passport Office, Bangalore,
R/at No.5/365, Krishnappa Bldg.,
Jalahalli,
Bangalore-560 013.
33. Sri Narasimha Gowda,
S/o Govinda Gowda,
Aged about 24 years,
Working as Casual Employee,
Passport Office, Bangalore,
R/at Kumara Krupa Annex II,
Bangalore.
34. Smt. Kumuda Selvi,
D/o E. Parasuraman, E.,
Aged about 26 years,
Working as Casual Employee,
Passport Office, Bangalore,
R/at No.37/A, Kallahalli,
Kensington Park Road,
Shivanshetty Garden,
Bangalore.
35. Sri I. Arivalagan,
S/o S.A. Lingesan,
Aged about 34 years,
Working as Casual Employee,
Passport Office, Bangalore,
R/at No.35/3, 'A' Type Defence
Quarters, Someshwarapura Extn.,
Bangalore.
36. Smt. Tamil Selvi, R.,
D/o Ramamurthy, m
Aged about 23 years,
Working as Casual Employee,
Passport Office, Bangalore,
R/at No.62, G Street,
Jokkupalyam Main Road,
Ulsoor, Bangalore.

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37. S. Shashi Kumar,
S/o late S. Shanmugan,
Aged about 26 years,
Working as Casual Employee,
Passport Office, Bangalore,
R/at No.2689, 11th Main, D Block,
II Stage, Rajajinagar,
Bangalore.
38. Smt. D. Premalatha,
Aged about 25 years,
D/o Dorairaj,
Working as Casual Employee,
Passport Office, Bangalore,
R/at No.110/1, Rudrappa Garden,
Viveknagar,
Bangalore.
39. Smt. S. Arathi,
D/o M. Shekaran,
Aged about 20 years,
Working as Casual Employee,
Passport Office, Bangalore,
R/at No.1192, HAL III Stage,
New Thippasandra,
Bangalore.
40. Sri Jagadeesha,
S/o T. Krishna,
Aged about 26 years,
Working as Casual Employee,
Passport Office, Bangalore,
R/at No.B246/1, Pushpa Enterprises,
Babhubalinagar,
Jalahalli, Bangalore.
41. K. Shivakumar,
S/o Seshappa,
Aged about 23 years,
Working as Casual Employee,
Passport Office, Bangalore,
R/at No.508, MES Road,
Gokula, Bangalore.
42. Smt. M. Chitra,
Aged about 22 years,
D/o M. Mothu,
Working as Casual Employee,
Passport Office, Bangalore,
R/at No.9, 2nd Cross,
Saraswathipuram,
Ulsoor, Bangalore.
43. Smt.R. Beena Kumari,
Aged about 20 years,
D/o S. Ranganathan,
Working as Casual Employee,
Passport Office, Bangalore,
R/at No.20, N.B.Street,
Viveknagar, Bangalore.



44. Smt. R. Niveditha,
D/o Ramachandraiah,
Aged about 23 years,
R/at 67, II C Main,
Near Pipeline Road,
Binny Layout,
Vijayanagar,
Bangalore-40.

Review Applicants in
R.A. No.103 to 145/94

45. M. Robin Suresh Rajendra,
S/o A. Muthaiah,
Aged about 35 years,
Working as Casual Employee,
Passport Office, Bangalore,
R/at No.112/B, H. Colony,
Indiranagar, I Stage,
Bangalore-38.
46. R. Jothi,
D/o late Ramdas,
Aged about 30 years,
Working as Casual Employee,
Passport Office, Bangalore,
R/at No.43, I Main Road,
II Stage, Gouthamapuram,
Ulsoor, Bangalore.
47. S.D. Arulnathan,
S/o B.S. Devadas,
Aged about 31 years,
Working as Casual Employee,
Passport Office, Bangalore,
R/at No.200/A David Villa,
New Thippasandra,
Bangalore.
48. K. Kempanna,
S/o Chikkamariyappa,
Aged about 23 years,
Working as Casual Employee,
Passport Office, Bangalore,
R/at No.79, Channarayappa Bldg.,
11th Cross,
A.K. Colony, Mathikere,
Bangalore-54.
49. S. Bhaskaran,
S/o R. Subramaniam,
Aged about 29 years,
Working as Casual Employee,
Passport Office, Bangalore,
R/at No.188, Old Byapanahalli,
7th Cross, S.R.S. Nilayam,
Bangalore-38.

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50. Smt. B. Thresa Asha,
S/o late M. Bernard,
aged about 25 years,
Working as Casual Employee,
Passport Office, Bangalore,
R/at No.160, Shivajiroad Cross,
Shivajinagar,
Bangalore.
51. Charles Antony Samuel,
S/o B.S. Samuel,
Aged about 25 years,
Working as Casual Employee,
Passport Office, Bangalore,
R/at No.J.No.3rd Street,
No.18, Ashokanagar,
Bangalore-28.
52. C. Dheganeshwaran,
S/o Chinnaraj,
aged about 32 years,
Working as Casual Employee,
Passport Office, Bangalore,
R/at No.216, 3rd Cross,
Kanakadasa Layout,
Lingarajapura,
Bangalore.
53. Smt. Noor Fathima,
D/o D. Abdul Kareem,
Aged about 27 years,
Working as Casual Employee,
Passport Office, Bangalore,
R/at No.656, 3rd Block,
Rajajinagar,
Bangalore.

... Review Applicants in
R.A. No.147 to 155/94

[By Advocate Dr. M.S. Nagaraja in RA No.103 to 146/94
& By Advocate Shri K. Subba Rao in RA No.147 to 155/94]

Vs.

1. The Secretary,
Ministry of External Affairs,
Union of India,
Patiala House,
New Delhi.
2. The Regional Passport Officer,
No.25/1, Shankaranarayana Bldg.,
M.G.Road, Bangalore.

...
Respondents

[By Advocate Shri M.S. Padmarajaiah ...
Senior Standing Counsel for Central Govt .]



O R D E R

Shri A.N. Vujjanaradhya, Member [J]:

1. Many of the applicants in O.A. No.238, 341, 394 to 455/94 have filed these Review Applications ['RAs' for short] seeking to recall the common order passed therein on 30.6.1994 and to reconsider the same. In both the batches of cases because of delay in filing the RAs they have also filed applications seeking condonation of the delay on the ground that they did not have money and had applied for Legal Aid Cell for necessary assistance and still they did not get the assistance and therefore there was delay in filing the RAs. The review is sought mainly on the ground that the decision rendered by the Ernakulam Bench on 25.3.1993 in O.A. No.903/91 and connected cases is applicable in all fours to the facts of the applications of the review applicants and the decision rendered therein ought to have been implicitly followed and there should not have been any departure from the said decision. According to the review applicants, the decision which does not follow that of the Ernakulam Bench is an error apparent on the face of the record and the same has got to be rectified by allowing these RAs. According to the learned counsel for the review applicants the case of the review applicants is not only based on the circular dated 10.9.1993 but also on the decisions of the Principal Bench of the Central Administrative Tribunal, the Supreme Court and the Ernakulam Bench of the Tribunal and the Tribunal has erred in concluding that the case of the review

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applicants rested mainly on the scheme dated 10.9.1993 alone.

2. Opposing the RAs it was contended for the respondents that no material is produced to show that the review applicants had approached the Legal Aid Cell for necessary financial assistance and in the absence of such material the delay cannot be condoned. Regarding the merits it was contended that there was no alternative prayer in the OAs nor were there any averments in the applications making alternative case independent of the scheme dated 10.9.1993 and, therefore, there is no error apparent on the face of the record seeking review. According to the respondents if the decision is erroneous the remedy open to the review applicants is to go in appeal and they cannot maintain the RAs.

3. We have heard Shri K. Subba Rao and Shri Ananda Ramu for some of the review applicants and Dr. M.S. Nagaraja for other review applicants and Shri M.S. Padmarajaiah, learned Standing Counsel, for the respondents.

4. In both the batches of RAs, the review applicants have filed applications seeking to condone the delay along with affidavits stating that because they are out of employment and had no money to file the RAs and could not get the necessary aid from the Legal



Aid Cell there was delay and, therefore, the same should be condoned. In support of this contention they have also relied on some of the decisions, the reference to which may not be necessary. Except contending that review applicants had not placed any material on record to show that they had approached the Legal Aid Cell and they did not get the assistance there, learned Standing Counsel contended that there are no sufficient grounds to condone the delay. The fact that the review applicants are out of employment and they have no income is not in dispute. No negligence or inaction on the part of the review applicants is alleged against them. Because the condonation of delay is only a procedural matter and further because we would like to dispose of these RAs on their merits, we deem it proper to condone the delay accepting the reasons assigned for such delay as sufficient.

5. Learned counsel representing the review applicants vehemently contended that they have prayed for regularisation of their services with all benefits from the date of entry into service and to direct the respondents to continue them as clerks at the office of the 2nd respondent not only on the basis of the scheme dated 10.9.1993 but also on the basis of the decisions of the Supreme Court, the Principal Bench and the Ernakulam Bench of this Tribunal rendered in O.A. No.903/91 and other applications decided on 25.3.1993 [ARAVINDAKSHAN AND OTHERS V. REGIONAL PASS-PORT OFFICER, COCHIN AND ANOTHER]. This contention

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is controverted by the learned Standing Counsel contending that there are no averments in the applications about the alternative claim now alleged by the review applicants nor is there any alternative prayer and therefore it cannot be said that the review applicants had claimed regularisation of their services independently of the scheme. To appreciate the rival contentions, it is necessary to extract the relevant averments in the applications. In O.A. No.341/94 relevant averment is found in para 4.2 at page 3. It reads thus:

"...The applicant submits that in terms of the Government Official Memorandum in No. 51016/2/90-Estt[C] dated 10.9.1993 all casual employees who have put in 106 days of work in a period of ~~one~~ year in offices which work for 5 days in a week and 240 days in a period of one year where the office works for 6 days in a week are entitled to be treated as temporary employees for purpose of pay, increments, leave and other benefits which are enumerated therein. The O.M. also provides that termination of services could be made by giving one month's notice in writing."

In O.A. No.238, 394 to 455/94 the relevant averments are found at para 4[d] and 4[f] at pages 12 and 14 of the applications. The averments therein are --

"... It is submitted that the Ministry of Personnel, P.G. and Pensions, Government of India has already issued the guidelines in the matter of recruitment of personnel on daily wage basis in Central Government Offices in Office Memorandum No.49014/2/86-Estt[C] dated 7.6.1988. Along with these guidelines, the said Ministry of Personnel has been pleased to issue additional guidelines to the concerned Department to grant temporary status to casual employees who are presently employed and have rendered one year of continuous service in Central Government offices and to regularise their services. These guidelines

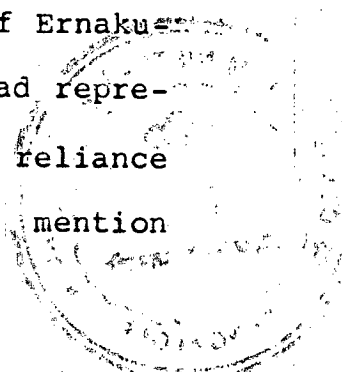


have been issued following the judgment passed in the case of Sri Rajkamal & others V/s Union of India by the Principal Bench, Central Administrative Tribunal, New Delhi on 16.2.1990. The Ministry of Personnel has issued these guidelines at its Office Memorandum No.51016/2/90-Estt[C] dated 10.9.1993. The true copy of the said Office Memorandum is herewith produced and marked as Annexure A. Following these guidelines the services of as many ~~as many~~ casual employees have already been regularised. As such the applicants are also entitled for grant of temporary status and also to their services regularised."

"The Office Memorandum vide Annexure A is also been clear that these applicants are entitled for their regularisation of services. The 2nd respondent without following the judgments of the Hon'ble Supreme Court of India, Principal Bench, Central Administrative Tribunal, New Delhi and the guidelines issued by the Govt. of India has been preventing the applicants from discharging their duties by directing them not to work."

A perusal of these averments in the applications makes it abundantly clear that the claim of the review applicants in the OAs had mainly rested on the scheme dated 10.9.1993 which came to be issued in pursuance of the judgment of the Principal Bench of the Tribunal delivered on 16.2.1990 in the applications filed in RAJ KAMAL AND OTHERS V. UNION OF INDIA referred to in the said scheme. Review applicants had also referred us to the decision in the case of Raj Kamal on the basis of which the scheme was formulated. No alternative prayer is made on the basis of the decision of the Ernakulam Bench of this Tribunal, though in O.A. No.341/94, a reference to the decision of Ernakulam Bench is made, the learned counsel who had represented the applicants in the OAs had placed reliance mainly on the scheme. It is pertinent to mention

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at this stage, that the learned counsel who represent the review applicants now, had not represented them in the OAs. We have referred to the decision of Ernakulam Bench in our order and have pointed out how the ratio of the said decision is not applicable to the facts of the case of the review applicants. If in the opinion of the review applicants, the view taken by us is erroneous the remedy is elsewhere and not before this Tribunal. Such a view taken by this Tribunal cannot be considered as a mistake apparent on the face of the record and as such review applicants cannot reagitate the entire matter again. The contention advanced by Dr. Nagaraja that there is no appeal provided in the Administrative Tribunals Act and, therefore, we have to take liberal outlook in entertaining RAs and all the contentions should be considered with due weight, cannot be accepted as correct inasmuch as the scope of review is limited to any mistake or error apparent on the face of the record or any material which the review applicants could not place on record inspite of due diligence and which material they have come across subsequently or any other similar grounds. In the absence of such grounds having been made out, we are constrained to observe that we are unable to go into a detailed discussion of the issues involved in the application that was disposed of by Ernakulam Bench and the OAs that were disposed of by us.



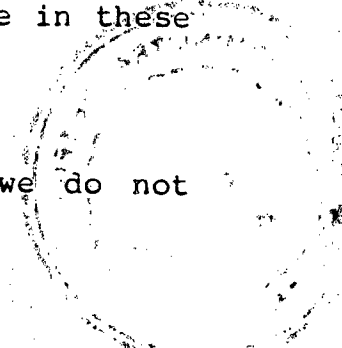

6. The scope of review power of High Court came up for consideration before the Supreme Court in a recent decision in MEERA BHANJA [SMT] V. NIRMALA KUMARI CHOUDHURY [SMT.] reported in [1995] 1 SCC 170. The summary of the observation found in head note reads thus:-

"The review proceedings are not by way of an appeal and have to be strictly confined to the scope and ambit of Order 47 Rule 1, CPC. The review petition has to be entertained only on the ground of error apparent on the face of the record and not on any other ground. An error apparent on the face of record must be such an error which must strike one on mere looking at the record and would not require any long-drawn process of reasoning on points where there may conceivably be two opinions. The limitation of powers of court under Order 47 Rule 1, CPC is similar to the jurisdiction available to the High Court while seeking review of the orders under Article 226."

These observations are relevant under the circumstances discussed above.

7. By a separate order we have dismissed the RA No. 33/94 filed by the respondents today, wherein review of the order passed by us was sought by the respondents herein on the ground that the subsequent guidelines issued by the Ministry of External Affairs had required employing casual labourers through Employment Exchange mandatory. Therefore, it is not again necessary to go into that aspect of the case in these RAs.

8. In view of what is discussed above, we do not



think it is necessary for us to refer to various contentions on the merits of the original application in these RAs which have already been considered. In the result these RAs fail and the same are hereby dismissed. No costs.

Sd/-

MEMBER [A]

Sd/-

16/2/95

MEMBER [J]



TRUE COPY

[Signature]
Section Officer
Central Administrative Tribunal
Bangalore Bench
Bangalore