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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH
AT HYDERABAD

MA 681/99 & RA 96/99 in OA 7/99

DATE OF ORDER : 7.10.1999.

Between :-

M.Nageswara Rao

... Applicant(3rd party)
And

1. Smt.Rahima Sujeevan
2. The Union of India rep. by its General Manager, SC Rlys, Rail Nilayam, Sec'bad.
3. The Chief Personnel Officer, SC Rlys, Sec'bad.
4. S.P.Chowdhary

... Respondents

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Counsel for the Applicant : Shri Shiva

Counsel for the Respondents : Shri V.Rajeshwar Rao, Addl.cGSC

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CORAM:

THE HON'BLE SHRI R.RANGARAJAN : MEMBER (A)

THE HON'BLE SHRI B.S.JAI PARAMESHWAR : MEMBER (J)

(Order per Hon'ble Shri R.Rangarajan, Member (A)).

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(Order per Hon'ble Shri R.Rangarajan, Member (A)).

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Heard Sri Shiva for the RA applicant and Sri V.Rajeshwar
 Rao, Standing Counsel for the/Respondents 2 & 3. Notice
 served on Respondent No.4 called absent. It is stated that
 Respondent No.1 refused to take notice when served.

2. The official Respondents have no objection to allow this
 MA 681/99. Hence the same is allowed and the private party
 is permitted to file this R.A. though he is not a party in
 the O.A. The private party, though he was not a party in
 OA 7/99 has filed this review petition for reviewing our
 judgement dated 8-7-1999. That OA was allowed. The applicant
 in this R.A. has two main contentions for reviewing our order.

3. The first contention of the applicant is that the applicant
 in the OA i.e. the Respondent No.1 herein was promoted on
 5.8.1997 and on the date of issue of alert notice she had not
 put in 2 years of regular service for promotion to the post of
 O.S.Gr.II. Her notional promotion from 1.1.1996 will not
 entitle her to be called for test if she had not put in 2
 years of regular service in the lower grade on the date of issue
 of alert notice. The above contention has been considered.

^{The}
 Rule 215(a) of I.R.E.M. clearly stipulates that the condition
 of 2 years of service should stand fulfilled at the time of
 actual promotion and not necessary at the time of issue of
 notification, written test and interview. That would mean that
 Respondent No.1 can be considered for promotion even if she

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had not completed 2 years of service at the time of consideration but she can be promoted only when she completes 2 years of service in the lower grade on the date of promotion. In this case she has completed 2 years of service as Head Clerk on [~] 5.8.1999. Hence ~~that~~ [~] that date she can be promoted and before that date there is no rule preventing her for empanelling for the post of OS Gr.II. Hence the contention of the Review Applicant has to be rejected. // The second contention of the applicant in this R.A. is that the number of vacancies were reduced from 5 to 4 and on that basis the zone of consideration has shrunk. As the Respondent No.1 was the last candidate in the list dated 26.2.1998 (R-2, page-8 to the Review Application) ^{was} she should not have been considered even if she ^{is} ~~is~~ qualified.

4. The Original Application was admitted on 4.1.1999 and an interim order was passed in the OA on 4.1.1999 to the effect "that the applicant in the OA shall be called for viva-voce scheduled to be held tomorrow or any other subsequent date for selection of OS Gr.II.. The result of interview shall not be announced until further orders". The above interim order was complied with by the Respondents. That means that the Respondent No.1 herein was called for viva-voce along with the applicant in the R.A. If the applicant ^{was} ~~is~~ aggrieved by the interim order by calling Respondent No.1 herein for ~~getting~~ ^{the} viva-voce who ^{was} ~~is~~ out of consideration for selection to that post, the applicant herein should have got himself impleaded in the OA and prayed for vacation of the interim order and also

question the inclusion of Respondent No.1 herein for consideration to that post. It cannot be said that the applicant in the Review Application is not aware of the Respondent No.1 having been called for interview as per the interim order as he was also a candidate for the same selection. Even if he has missed the opportunity at that time, he could have in the normal course got impleaded himself in the OA and argued against selection of Respondent No.1 herein. But that was also not done. The applicant herein had woken up only after judgement was passed and prays for reviewing the judgement very belatedly. Such belated action on the part of the review applicant cannot be entertained. Hence the applicant herein cannot ask for the review of the judgement.

5. The learned counsel for the applicant in the R.A. submits that there is a rule in regard to zone of consideration. If that rule of zone of consideration is not followed then, he can approach this Tribunal for reviewing the judgement. As stated earlier, belated request cannot be taken note of. Further the court or a Tribunal may not be aware of the rules or procedures as stipulated in the IREM or Code. It is for the affected parties to bring the rules to the notice of the Court and ask for the relief accordingly. The applicant failed to do so. Relying on para-215 of IREM, he submits that only 3 times to the number of vacancies are eligible for consideration. If rule is otherwise in IREM then also they should have brought it to the notice of the Tribunal. The Bench of the Tribunal or a Court cannot be asked to make roving enquiries about the provisions and procedures. The Court or Tribunal goes as per the material available on the record and also material

submitted at the appropriate time. The applicant failed to take necessary steps to bring the relevant instructions to the notice of the Bench in time, if Respondent No.1 ^{was} ~~is~~ called for viva-voce beyond the rules prescribed for selection.

6. In view of what is stated above, we find that there is no reason to review the judgement. Hence the R.A. is only liable to be dismissed and accordingly it is dismissed.

7. No order as to costs.


B. SUJAI PARAMESHWAR
Member (B)
7. 10. 99


(R. RANGARAJAN)
Member (A)

Dated: 7th October, 1999.
Dictated in Open Court.

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