

16

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH, JAIPUR.

R.A. No. 67/94 (OA 901/92)

Date of order: 15.9.2000

D.L. Badiwal son of Shri Ram Narain Badiwal, Directorate of Census Operations, Rajasthan, Rambagh Palace, Annexe, Jaipur resident of Queen's Road, Motinagar, Plot No. 47, Jaipur.

Applicant

versus

1. The Union of India through Secretary to the Ministry of Home Affairs, Department of Census, New Delhi.
2. Registrar General of India, 2-A, Mansingh Road, Kotha House, Annexe, New Delhi.
3. The Joint Director, Census Operation, Rajasthan, Rambagh Palace, Annexe, Jaipur.
4. Shri Ganeshi Lal Verma, Investigator C/o Director, Census Operations, Rajasthan, Rambagh Palace Annexe, Jaipur.

... Respondents

Mr. P.P. Mathur, Proxy counsel for
Mr. R.N. Mathur, Counsel for the applicant.
Mr. V.S. Gurjar, Counsel for the respondents.

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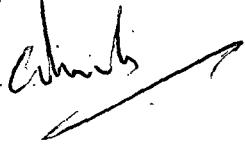
Hon'ble Mr. Justice B.S. Raikote, Vice-Chairman
Hon'ble Mr. N.P. Nawani, Administrative Member

ORDER

(PER HON'BLE MR. N.P. NAWANI, ADMINISTRATIVE MEMBER)

This Review Application has been filed to recall/review the order of this Tribunal rendered in OA no. 901/92 on 14.7.1994 (earlier registered as OA no. 184/86 at Jodhpur Bench of this Tribunal), D.L. Badiwal v. Union of India & Others.

2. Vide order dated 14.7.1994, this Tribunal had dismissed the OA filed by the applicant with no order as to costs.


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3. We have perused the averments made in the Review Application (for short R.A.) and have also gone through the order delivered by this Tribunal dated 14.7.1994 in OA No. 901/92.

4. The main contention of the applicant in this R.A. are that the Tribunal while passing the order dated 14.7.1994 had not taken into consideration the rejoinder filed by the applicant on 28.1.1988 with the result that it had not considered that the new Recruitment Rules (for short, RRs) which had come into force w.e.f. 01.05.1985 should have been applied by the respondents rather than the old ones when the promotion of applicand had been considered on 04.09.1985 as also the fact that Moti Singh and Umed Singh were not graduate when they were promoted on 15.4.1986. It has also been contended that at the relevant time both the applicant and respondent no. 4 were substantive Statistical Assistants and working on ad-hoc basis as Investigators and respondent no. 4, who was junior to the applicant, ~~who~~ ought to have been reverted. It is, therefore, claimed that had these facts been taken into consideration, the judgement would have been different. Thus, there is an illegality apparent on the face of record and the order dated 14.7.1994 deserves to be recalled.

5. We have heard the learned counsel for the applicant at length as also the learned counsel for the respondents.

6. After carefully considering the rival contentions, we feel that since ^{in ~~in~~ ~~the~~ Tribunal} the order dated 14.7.1994, it has been specifically mentioned by the Members of the Division Bench ".....have gone through the records of the case carefully", it cannot be said that the Hon'ble Members had not taken into consideration before delivering the judgement dated 14.7.1994. No error apparent ~~in~~ therefore, has been established. We also find that the order dated 14.7.1994 is a well considered four page judgement and what the applicant seeks through this R.A. is ~~recognition~~ ^{the rejoinder a} of the issues raised before this Tribunal in OA no. 901/92 and

we have not been able to persuade ourselves to agree to the suggestions of the learned counsel for the applicant that we examine in this R.A. the rights of the applicant for regular promotion to the post of Investigator on the basis of the RRs as allegedly applicable w.e.f. 1.5.1985.

7. What the petitioner is claiming through this review petition is that this Tribunal should reappreciate the facts and material on record. This is beyond the purview of this Tribunal while exercising the powers of the review conferred upon it under the law. It has been held by Hon'ble Supreme Court in the case of Smt. Meera Bhanja v. Nirmal Kumari, AIR 1995 SC 455 that reappreciating facts/law amounts to overstepping the jurisdiction conferred upon the Courts/Tribunal while reviewing its own decision. In the present petition also the petitioner is trying to claim reappreciation of the facts and material on record which is decidedly beyond the power of review conferred upon the Tribunal and as held by Hon'ble Supreme Court.

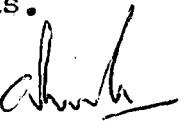
8. It has been observed by the Hon'ble Supreme Court in a recent judgment Ajit Kumar Rath v. State of Orissa & Others, JT 1999(i) SC 578 that a review cannot be claimed or asked for merely for a fresh hearing or arguments or correction of an erroneous view taken earlier, that is to say, the power of review can be exercised only for correction of a patent error of law or fact which states in the face without any elaborate argument being needed for establishing it. It may be pointed out that the expression 'any other sufficient reason' used in order 47 Rule 1 means a reason sufficiently analogous to those specified in the rule.

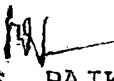
9. In view of the above and the facts and circumstances of this case, we do not find any error apparent on the face of the

10

record to review the impugned order and, therefore, there is no basis to review the above order.

10. We, therefore, dismiss the review application having no merits.


(N.P. NAWANI)
MEMBER (A)


(B.S. RAIKOTE)
VICE CHAIRMAN