

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH, JAIPUR.

I. R.A.No.4/94

Date of order: 26-10-99

1. Vijay Kumar Juneja, S/o Shri Vasudev Juneja, R/o House No.790, Sindhi Colony, Adarshnagar, Jaipur.
2. S.K.Ajmera, S/o Shri Umrao Mal Ajmera, R/o Kila-ka-Bhawan, Near CFS Bus Stand, Sanganer, Jaipur.

...Applicants

II. R.A.No.7/94

1. Hira Lal Mehra, S/o Shri Tara Chand Mehra, R/o 13/656, Malviya Nagar, Jaipur.
2. Rahul Garg, S/o Shri Rajendra Prasad Garg, R/o 667 Tikki Walon ka Rasta, Kishanpole Bazar, Jaipur.

...Applicants

Versus

1. Union of India through Home Secretary, Govt. of India, Ministry of Home Affairs, New Delhi.
2. The Registrar General of India, 2-A, Man Singh Road, Kotah House Annexes, New Delhi.
3. The Director of Census, Operation Rajasthan, Jaipur.
4. Shri K.C.Gupta, Statistical Assistant, O/O Director Census Operations, Rajasthan, Jaipur.
5. Shri Hasan Khan, Statistical Assistant, O/O Director Census Operations, Rajasthan, Jaipur.

...Respondents.

Mr.Shiv Kumar)
Mr.S.K.Jain) Counsel for applicants

Mr.Manish Bhandari)
Mr.M.Rafiq) Counsel for respondents.

CORAM:

Hon'ble Mr.S.K.Agarwal, Judicial Member

Hon'ble Mr.N.P.Nawani, Administrative Member.

PER HON'BLE MR.S.K.AGARWAL, JUDICIAL MEMBER.

These two Review Petitions have been filed to review the order passed by this Tribunal in O.A.No.38/93 and O.A.No.58/93 dated 15.12.93. The order passed by this Tribunal in the aforesaid O.As is as under:

"For the cases of regularisation, the persons who were appointed earlier will have a right to get the benefit of seniority though their orders of regularisation were passed two months later. They will have the right to count the length of service and we do not find any illegality in Annexure-A1. The directions are that the persons appointed earlier should be regularised first prospectively after screening. If any case has not been considered, all the persons who have been appointed earlier and the orders were

(34)

passed subsequently, then first length of service will be considered for the purpose of seniority and there is no illegality in the order Annexure A1. So the respondents are senior to the applicants as they were appointed on 21.3.80 whereas the applicants were appointed on 25.4.80. Both were adhoc employees; both continued in employment for a long time on ad hoc basis against the rules or against the circular. So, naturally, respondents Nos.4 and 5 will be senior as they were appointed earlier though their orders of regularisation were passed on 14.3.91 whereas the orders of regularisation of the applicants were passed in January 91. The respondents have not committed any illegality in reverting the applicants vide Annexure-A3, dated 31.12.92 on the ground that they will have to give the appointment to the selected senior persons first, namely respondents Nos.4 & 5.

In the result, we do not find any force in the O.A and the same is dismissed with no order as to costs."

2. The contentions of the applicants in these R.As have been that the impugned order is based on wrong facts narrated in para 12 of the judgment which were not even pleaded by any of the parties.

3. Reply was filed by the respondents. In the reply, it is stated that the order of this Tribunal is self contained and speaking order based on reasoning and this Tribunal has not committed any error apparent on the face of record. It has also been stated in the reply that no new facts/developments have been alleged by the review petitioner.

4. Heard the learned counsel for the parties, and perused the whole record.

5. The learned counsel for the applicants while arguing these two R.As have stressed on the wider scope of the Review Application and submitted that the impugned order against which this review is sought is based on wrong facts which were not even pleaded by any of the parties. He has referred 1995 (1) SCC 170.

6. On the other hand the learned counsel for the respondents have submitted that there is a limited scope to review the impugned order and review is only possible where there is an error apparent on the face of the record. In support of the contentions, they have referred (1997) 3 SCC 715, Parsion Devi & Ors. Vs. Sumitri Devi & Ors., 1994 (7) SLR 717 (Full Bench), J.Soloman and Ors. Vs. UOI & Ors. and 1988 (4) SLR. Ranjit Singh Vs. UOI & Ors.

7. We have given thoughtful consideration to the rival contentions of both the parties and also perused the whole record.

8. Section 22(3) of the Administrative Tribunals Act, 1985 confers on an Administrative Tribunal discharging its functions under the Act, the same powers as are vested in a Civil Court under the Code of Civil Procedure while trying a suit in respect inter alia of reviewing its decisions. Sec.22(3)(f) is as under:

"Section 22(3)(f):

A Tribunal shall have, for the purpose of discharging its functions under this Act, the same powers as are vested in a civil Court under the Code of Civil Procedure, 1908 (5 of 1908), while trying a suit, in respect of the following matter, namely

(f) reviewing its decisions;"

9. A Civil Court's power to review its own decision under the Code of Civil Procedure is contained in Order 47 Rule 1, Order 47 Rule 1 provides as follows:

"Order 47 Rule 1:

Application for review of judgment:

(1) Any person considering himself aggrieved:

(a) by a decree or order from which an appeal is allowed, but from which no appeal has been preferred,

(b) by a decree or order from which no appeal is allowed; or

(c) by a decision on reference from a court of Small Causes and who, from the discovery of new and important matter or evidence which, after the exercise of due diligence, was not within his knowledge or could not be produced by him at the time when the decree was passed or order made, or on account of some mistake or error apparent on the face of the record, or for any other sufficient reason, desires to obtain a review of the decree passed or order made against him, may apply for a review of judgment to the court which passed the decree or made the order."

10. On the basis of the above proposition of law, it is clear that power of the review available to the Administrative Tribunal is similar to power given to civil court under Order 47 Rule 1 of Civil Procedure Code, therefore, any person who consider himself aggrieved by a decree or order from which an appeal is allowed but from which no appeal has been preferred, can apply for review under Order 47 Rule (1)(a) on the ground that there is an error apparent on the face of the record or from the discovery of new and important matter or evidence which after the exercise of due diligence, was not within his knowledge or could not be produced by him at the time when the decree or order was passed but it has now come to his knowledge.

11. In the instant cases there appear to be no error apparent on the face of the record or there is no other sufficient reason on the basis of this order delivered by this Tribunal can be reviewed as submitted by the applicants.

12. The legal citation as referred by the learned counsel for the applicants does not help the applicants in any way.

13. Therefore, we are of the opinion that there is no reasonable basis to review the impugned order and these Review Applications have no force at all.

14. On the basis of the above, these two Review Applications are hereby dismissed.

(N.P.Nawani)
Member (A).

/(S.K.Agarwal)
Member (J).