

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
JAIPUR BENCH, JAIPUR.

Jaipur, the ^{14th February} ~~January~~, 2014

CORAM :

HON'BLE MR. ANIL KUMAR, ADMINISTRATIVE MEMBER
HON'BLE MR. A.J. ROHEE, JUDICIAL MEMBER

1. REVIEW APPLICATION/291/00001/2014
IN
ORIGINAL APPLICATION NO. 234/2010

Durga Lal Sen son of Shri Ratan Lal, aged about 46 years, resident of 208 A Quarter Type III, Railway Workshop Colony, Kota Junction and presently working as Office Superintendent Grade II, Section under Chief Works Manager, West Central Railway, Kota Division, Kota.

... Applicant

Versus

1. Union of India through General Manager, West Central Zone, West Central Railway, Jabalpur.
2. Chief Personnel Officer (Administration), West Central Zone, West Central Railway, Jabalpur (M.P.).
3. Chief Works Manager (Wagon Repair Workshop), West Central Railway, Kota Division, Kota.

... Respondents

2. REVIEW APPLICATION/291/00002/2014
IN
ORIGINAL APPLICATION NO. 237/2010

R.S. Khandelwal son of Shri R.L. Khandelwal, aged about 46 years, resident of C/o H.K. Saxena, Opposite Petrol Pump, Station Road, Kota Junction and presently working as Office Superintendent, Grade II, Box Shop (Wagon Repair Shop) under Chief Works Manager, West Central Railway, Kota Division, Kota.

... Applicant

Versus

1. Union of India through General Manager, West Central Zone, West Central Railway, Jabalpur.
2. Chief Personnel Officer (Administration), West Central Zone, West Central Railway, Jabalpur (M.P.).

3. Chief Works Manager (Wagon Repair Workshop), West Central Railway, Kota Division, Kota.

... Respondents

ORDER BY CIRCULATION

PER HON'BLE MR. ANIL KUMAR, ADMINISTRATIVE MEMBER

Since the controversy involved in both these two Review Applications [RA/291/00001/2014 in OA No. 234/2014, Durga Lal Sen vs. Union of India & Others and RA/291/00002/2014 in OA No. 237/2010, R.S. Khandelwal vs. Union of India & Others] is the same, therefore, these are being disposed of by a common order.

2. The applicants have filed these Review Applications stating that this Tribunal indirectly has held that reservation is applicable on vacancies instead of cadre strength. The cadre strength of OS Grade II is 23, hence the reservation can be allowed only against the cadre strength of 23 posts whereas the respondents have modified the panel to further extend reservation against 35 vacancies beyond the cadre strength of 23 posts of OS Grade II. Therefore, it has been prayed that the matter be heard on merit again taking into consideration the reservation policy.

3. We have perused the common order dated 13.12.2013 passed by this Tribunal in OA No. 234/2010 (Durga Lal Sen vs. Union of India & Others) and OA No. 237/2010 (R.S. Khandelwal vs. Union of India & Others) and we are of the considered opinion that all the points raised by the applicants in the Review Applications have been considered by the Tribunal in its common order dated 13.12.2013 passed in the OA No. 234/2010 (Durga Lal

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Sen vs. Union of India & Others) and OA No. 237/2010 (R.S. Khandelwal vs. Union of India & Others) and there is no error of facts or law apparent on the face of record.

4. The Hon'ble Apex Court in the case of **Smt. Meera Bhanja vs. Nirmal Kumari**, AIR 1995 SC 455, observed that reappreciating facts/law amounts to overstepping the jurisdiction conferred upon the Courts/Tribunals while reviewing its own decision. In the present application also, the applicant is trying to claim reappreciation of the facts/law which is beyond the power of review conferred upon the Tribunal as held by Hon'ble Supreme Court.

5. The Hon'ble Apex Court has categorically held that the matter cannot be heard on merit in the guise of power of review and further if the order or decision is wrong, the same cannot be corrected in the guise of power of review. What is the scope of Review Petition and under what circumstance such power can be exercised was considered by the Hon'ble Apex Court in the case of Ajit Kumar Rath Vs. State of Orissa, (1999) 9 SCC 596 wherein the Apex Court has held as under:

"The power of the Tribunal to review its judgment is the same as has been given to court under Section 114 or under Order 47 Rule 1 CPC. The power is not absolute and is hedged in by the restrictions indicated in Order 47 Rule 1 CPC. The power can be exercised on the application of a person on 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 order was made. The power can also be exercised on account of some mistake of fact or error apparent on the face of record or for any other sufficient reason. A review cannot

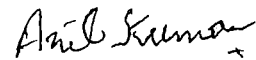
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be claimed or asked for merely for a fresh hearing or arguments or correction of an erroneous view taken earlier, that is to say, the power of review can be exercised only for correction of a patent error of law or fact which stares in the fact without any elaborate argument being needed for establishing it. It may be pointed out that the expression 'any other sufficient reason' used in Order XL VII Rule 1 CPC means a reason sufficiently analogous to those specified in the rule".

6. We do not find any patent error of law or facts in the order dated common order dated 13.12.2013 passed in the OA No. 234/2010 (Durga Lal Sen vs. Union of India & Others) and OA No. 237/2010 (R.S. Khandelwal vs. Union of India & Others). Therefore, in view of the law laid down by the Hon'ble Apex Court, we find no merit in this Review Application and the same is accordingly dismissed.



(A.J. Rohee)
Member (J)



(Anil Kumar)
Member (A)