

**CENTRAL ADMINISTRATIVE TRIBUNAL
JAIPUR BENCH, JAIPUR**

ORDER-SHEET

ORDERS OF THE TRIBUNAL

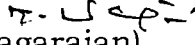
05/03/2014


R.A. No. 06/2013 (O.A. No. 188/2011) with
M.A. No. 185/2013

Mr. P.N. Jatti, Counsel for the applicant.

Heard the learned counsel for the applicant.

R.A. is disposed of by a separate order on separate sheets.


(M. Nagarajan)
Judicial Member


(Anil Kumar)
Administrative Member

Vr

**CENTRAL ADMINISTRATIVE TRIBUNAL
JAIPUR BENCH, JAIPUR**

**REVIEW APPLICATION NO. 06/2013
IN
ORIGINAL APPLICATION NO. 188/2011**

Date of Order: 5th March, 2014

Coram :

**Hon'ble Shri Anil Kumar, Administrative Member
Hon'ble Shri M. Nagarajan, Judicial Member**

Dr. R.C. Soni son of Shri Ram Dayal Soni, aged about 61 years, resident of 10/551, Kaveri Path Mansarovar, Jaipur.

....Applicant

(By advocate : Shri P.N. Jatti)

V E R S U S

1. Union of India through the Secretary to the Railway Board, Ministry of Railway, New Delhi.
2. General Manager, North Western Railway, Jaipur.
3. Chief Medical Director, North Western Railway, Jaipur.
4. Divisional Railway Manager, North Western Railway, Jaipur.

....Respondents.

ORDER BY CIRCULATION

Per Shri Anil kumar, Administrative Member

The applicant has filed this Review Application with the prayer that the order dated 14/12/2012 passed in O.A. No. 188/2011 in Dr. R.C. Soni Vs. Union of India (Annexure RA/1) be reviewed.

2. The learned counsel for the applicant submitted that the applicant was not promoted on the post of S.A.

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Grade by the DPC held in year 2009, as the applicant had three down graded ACRs in his service record. These down graded ACRs are for the year 2004-05, 2005-06 and 2006-07. Subsequently the ACRs for the year 2004-05 and 2006-07 have been upgraded. But the respondents did not hold any review DPC.

3. The DPC was again held in the year 2011, after the upgradation of the ACRs, but the applicant was not found fit. He submitted that criteria for the selection was changed. He further submitted that in the year 2009 the criteria for promotion was that out of five ACRs, three ACRs must have been very good, whereas, the applicant has four ACRs which has to be treated as very good.

4. The criteria was changed in the year 2011. The Hon'ble Central Administrative Tribunal while considering the prayer of the applicant in the O.A. did not consider this point.

5. The applicant being aggrieved by the order of the Central Administrative Tribunal, Jaipur Bench, Jaipur filed a DB Civil Writ Petition No. 1649/2013 before the Hon'ble High Court of Rajasthan at Jaipur. The said Writ Petition was withdrawn by the applicant with liberty to file Review Application.

6. We have carefully perused the pleadings in the Review Application and we are of the opinion that by

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filing this Review Application, the applicant is trying to reopen the entire case which is not permissible under the law of review.

7. 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.

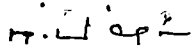
8. The Hon'ble Supreme Court has categorically held that the matter cannot be heard on merit in the guise of power of review. What is the scope of Review Petition and under what circumstance such power can be exercised was considered by the Hon'ble Apex Court in the case of Ajit Kumar Rath Vs. State 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

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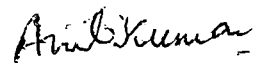
record or for any other sufficient reason. A review cannot be claimed or asked for merely for a fresh hearing or arguments or correction of an erroneous view taken earlier, that is to say, the power of review can be exercised only for correction of a patent error of law or fact which stares in the fact 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.

9. The Review Application can be entertained only to correct an error of fact or error in law of the order. We have carefully perused the order passed by this Bench in O.A. No. 188/2011 (supra). We are of the considered view that there is no error of fact and error of law in the order. The point applicant is trying to raise through the Review Application have been considered by this Bench in the their order dated 14/12/2012 passed in O.A. No. 188/2011 (supra). Therefore, we do not find any merit in this Review Application and accordingly it is dismissed.



(M. Nagarajan)

Judicial Member



(Anil Kumar)

Administrative Member