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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH, JAIPUR

Date of order: 29.6.2000

RA No. 16/2000 (OA No.222/97)

1. The General Manager, Western Railway, Mumbai.
2. The Chairman, Railway Recruitment Board, Mumbai.
3. The Divisional Commercial Superintendent (E),
Mumbai Central, Western Railway, Mumbai

.. Review applicants

Versus

Vishnu Prakash S/o Shri Bhagchand Kumawat, Kumawato Ka,
Kishangarh Renwal, District Jaipur.

.. Respondent

ORDER

Per Hon'ble Mr. N.P.NAWANI, Administrative Member

This Review Application has been filed to review and recall the order dated 12.5.2000 of this Tribunal passed in OA No.222/97, Vishnu Prakash v. Union of India and ors.

2. This Tribunal had vide its order dated 12.5.2000 allowed the OA filed by the applicant with no order as to costs.

3. It has been contended by the review applicants (official respondents in the OA) that the selection was to be made for 40 vacancies, of which 31 were for the general category, 6 for SC and 3 for ST categories and no vacancy was reserved for OBC category and the official respondents had, on account of the manner in which the applicant in the OA had filled up col. 10 of the Application Form presumed that the said applicant belonged to ST category, selected him for VCRC/ACC training. It is further contended that if the applicant was to be considered as a general candidate he could not have been selected on the basis of marks obtained by him and since there was no vacancy reserved for the OBC candidates, the applicant could not be given the benefit of OBC reservation

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also. It is further submitted that the findings/directions of the Tribunal are self-contradictory in respect of certain facts and also contrary to certain facts on record and the order dated 12.5.2000, therefore, needs to be reviewed and recalled.

4. We have perused the entire averments made in the Review Application and have also carefully gone through the order dated 12.5.2000 passed in OA No. 222 of 1997.

5. The question of filling up of Col.10 in the Application Form filled in by the applicant in the OA and the wrong interpretation made by the official respondents that the said applicant belonged to ST community has been gone into great detail by this Tribunal not only based on the material on records and the arguments advanced but also after examining the original records submitted by the official respondents. The action of the official respondents in not allowing the said applicant to undergo the final VCRC/ACC training starting on 6.1.1997 after having declared the said applicant successful in written examination as far back as 9.3.1994 and in final selection on 20.5.1994 and also making him undergo a vocational course in Railway Commercial was taken into consideration and not found sustainable in law, especially when the applicant was found in no way responsible for such wrong interpretation by the respondents. The order dated 8.5.2000 was passed by this Tribunal after taking all the facts into consideration and the directions issued basically implied that the said applicant should not be penalised for such wrong interpretation and the respondents should, therefore, allow him to join the next such training course and appoint him as Assistant Commercial Clerk. Satisfaction of other conditions would normally mean taking care of verification of character and antecedents etc. For implementation of the substantive relief, the respondents have to take all required action, including creation of a post, if considered necessary. Since the said applicant has declared himself as belonging to the OBC category, he has to be necessarily considered as such. We, therefore, find neither any error apparent on the face of record in the order dated 12.5.2000 passed in OA No. 222 of 1997 nor discovery of any new fact in the Review Application which, after the exercise of due diligence was not within the knowledge of the official respondents.

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6. What the review applicants are really claiming through this Review Application is that this Tribunal should re-appreciate 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 the Supreme Court in the case of Smt. Meera Bhanja v. Nirmal Kumari, AIR 1995 SC 455, that re-appreciating facts/ law amount to overstepping the jurisdiction conferred upon the Courts/Tribunal while reviewing its own decisions. In the present application also the applicant is trying to claim re-appreciation of the facts and material on record which is decidedly beyond the power of review conferred upon the Tribunal and as held by the Hon'ble Supreme Court.

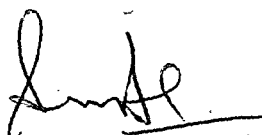
7. It has been observed by Hon'ble the Supreme Court in a recent judgment Ajit Kumar Rath v. State of Orissa and ors., JT 1999 (8) SC 578 that a review cannot be claimed or asked for merely for a fresh hearing or arguments or correction of an erroneous view taken earlier, that is to say, the power of review can be exercised only for correction of a patent error of law or fact which 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 47 Rule 1 means a reason sufficiently analogous to those specified in the rule.

8. In the instant case, on the perusal of the order delivered and also the record as a whole, we are of the considered opinion that there is no error apparent on the face of the record and no new important fact or evidence has come into the notice of this Tribunal on the basis of which the order passed by the Tribunal can be reviewed.

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

10. We, therefore, dismiss this Review Application as having no merits.


(N.P. NAWANI)
Adm. Member


(S.K. AGARWAL)
Judl. Member