

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
JAIPUR BENCH : JAIPUR

Date of order : 10.08.2001

1. R.A. No. 44/95  
in  
O.A. No. 333/94  
with
2. M.A. No. 265/95  
in  
R.A. No. 44/95  
in  
O.A. No. 333/94

1. State of Rajasthan through Secretary to the Government, Revenue Department, Secretariat, Jaipur.
2. Department of Personnel through its Secretary, Govt. Secretariat, Jaipur.

... Applicant.

v e r s u s

1. Shri D.D. Sood son of late Shri M.R. Sood, aged about 57 years, resident of Gandhi Nagar, Jaipur.
2. Union of India through Department of Personnel, Pension & Public Grievances, Government of India, New Delhi.

... Respondents.

Mr. Manish Bhandari, Counsel for the applicants.  
None is present for the respondents.

CORAM:

Hon'ble Mr. Justice B.S. Raikote, Vice Chairman  
Hon'ble Mr. Gopal Singh, Administrative Member.

: O R D E R :

(Per Hon'ble Mr. Justice B.S. Raikote)

This Review Application is filed by the State of Rajasthan seeking review of the order of this Tribunal dated 17.11.94 passed in O.A. No.

*RM*

333/94. The learned counsel appearing for the applicants contended that this Tribunal vide said order dismissed the O.A. No. 333/94, but <sup>it</sup> made certain observations regarding qualifications and appointments of Chairman and Members of Revenue Board. He also submitted that regarding prayer No. 1, this Tribunal held that it has no jurisdiction to issue a direction for appointment of the applicant in the O.A. either as Chairman or Member of the Revenue Board, since the Revenue Board is constituted under the provisions of the Rajasthan Land Revenue Act, 1956 (the Revenue Act, for short), and if that is so, this Tribunal could not have made observations regarding eligibility of persons, who could be or could not be appointed as Chairman / Member of the Revenue Board. He also submitted that since the Revenue Board is constituted under the Revenue Act, it is for the State Government which can make appointment of Chairman and Members, and which can also prescribe the qualifications for the said posts. But in the order under review, there were certain observations regarding qualifications etc., and these observations are coming in the way, even though the application has been dismissed. In this view of the matter, the learned counsel for the applicant prays that the order under review is sought to be modified to that extent only.

2. The respondents though served, are not present before this Tribunal. It is stated that earlier Shri R.N. Mathur was appearing on behalf of the respondents, but now he has become Additional Advocate General, and as such, it is not possible for him to appear for the respondents. The respondents have not made any other arguments. Having regard to these circumstances, we think it appropriate to dispose of the matter.

3. From the reading of the entire order under review, we find that this Tribunal has dismissed the application as not maintainable. In the said O.A., this Tribunal gave a clear finding regarding prayer No. 1,

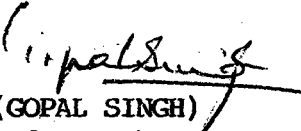
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which is the main prayer, that the prayer for appointment of the applicant as Member in the Revenue Board, is rejected on the ground that this Tribunal has no jurisdiction. When the Tribunal has no jurisdiction to entertain the application so as to grant the relief prayed for, it could not have made observations regarding qualifications and appointments of Chairman and Members. The Revenue Board is sought to be constituted under the provisions of Rajasthan Land Revenue Act, 1956, which is a State Act, and that the same has nothing to do with the Central Government servants. Only because one of the persons to be appointed was I.A.S. officer, this Tribunal could not have entertained such application. Moreover, the matter is under the said Revenue Act, and the constitution of the Revenue Board under the Rajasthan Land Revenue Act, 1956, is a matter totally outside the jurisdiction of this Tribunal, therefore, the order (in OA No. 333/94) under review was rightly dismissed as not maintainable. When the application itself was not maintainable, we could not have given findings on the matter incidentally arising, for appointment of such officer. In this view of the matter, by accepting the contention of the review applicants, we think it appropriate to observe that the findings given in para Nos. 9, 10, 18 and 19 of the said order, are only incidental and they will not have any binding effect on State Government, and those observations shall not be taken as laying down the law. When this Tribunal decided to dismiss the application as not maintainable, it could not have given those findings / observations, and the same are liable to be declared as ineffective by allowing this R.A. partly. Since those observations were one without jurisdiction, we also think it appropriate to condone the delay in filing the R.A., and for the above reasons, the M.A. No. 265/95 deserves to be allowed. Accordingly we pass the order as under:-

"The R.A. is partly allowed and the observations made in our order dated 17.11.94 passed in OA No. 333/94 on merit are hereby

*[Handwritten signature]*

declared to be ineffective, and the order dated 17.11.94 dismissing the application as not maintainable stands. The M.A. No. 265/95 is also allowed, as observed above. No costs."

  
(GOPAL SINGH)  
Adm. Member

  
(JUSTICE B.S. RAIKOTE)  
Vice Chairman

cvr.