

**IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
JAIPUR BENCH, JAIPUR**

**REVIEW APPLICATION No. 291/00001/2016  
(IN OA NO.291/00147/2014)**

Date of Order: 18/04/2016

Jaideep Sharma S/o Shri B.C.Sharma, aged 41 years, resident of II/77, A.G. Colony, Bajaj Nagar, Jaipur presently working as LDC, Office of Salt Commissioner, Jaipur.

.....Applicant

(By Advocate Mr. Amit Mathur)

**VERSUS**

1. Union of India, through the Secretary to the Government, Ministry of Commerce and Industry, Department of Industrial Policy and Promotion, Udyog Bhawan, New Delhi.
2. The Salt Commissioner, Govt. of India, 2-A, Lawan Bhawan, Lawan Marg, Jhalana Doongri, Jaipur.

.....Respondents

**ORDER  
(By Circulation)**

This Review Application No. 291/00001/2016 has been filed on behalf of applicant for review of order of this Tribunal dated 11.12.2015 (Annexure RA/ ) in OA No. 291/00147/2014.

2. In the aforesaid OA, the following prayer had been made:

"In view of the facts mentioned in the OA and grounds raised thereunder, it is humbly prayed that this Hon'ble Tribunal may graciously be pleased to allow the OA by quashing and setting aside the impugned orders (seniority list of LDCs Annexure - A/1, order dated 18.12.2013 (Annexure A/2) and order dated 30.01.2014 (Annexure A/3) to the extent these operate detrimental to the rights of the applicant and further directs the respondents to provide seniority in accordance with his merit rank assigned by the Staff Selection Commission for Rajasthan Zone for the vacancies of the year 1996 and thereby provide all consequential benefits."

3. After hearing and due consideration of the matter, the Tribunal decided the OA vide order dated 11.12.2015 with the last part of the operative Para reading as under :

"In view of the above position of Recruitment Rules, separate status of Headquarters office and Regional Offices, and that separate seniority is required to be maintained for Headquarter office and Regional office with respect to LDCs, and the fact that the applicant gave his consent for his transfer to Headquarter office Jaipur on junior most seniority amongst LDCs at Headquarter office, Jaipur, and that the transfer order issued way back on 14<sup>th</sup> March, 2005 (Annexure A/15, also filed as Annexure R/7) was never challenged, there appears no grounds to consider and grant the relief as prayed for by the applicant in the OA. Accordingly the OA, lacking in merit, is dismissed with no order as to costs.

4. One of the main grounds taken in the Review Application is that when the matter was finally heard by the learned Tribunal, the respondents supplied two notifications dated 01.05.1985 and 07.01.1987 in support of their case and argued on their basis. In this regard, it has been averred that in fact the first Notification dated 01.05.1985, was Rules and nomenclature of rules is The Salt Regions (Group "C" Posts) Recruitment Rules, 1985 and at the top of the notification it was mentioned that to be published in Part two- Section III- Sub Section -I of the Gazette of India. It was further mentioned in Sub-Rule B of Rule 2 that "they shall come into force on the date of their publication in the official gazette". This notification has never been published in the official gazette. The notification dated 07.01.1986 was also not published in the

gazette. As these notifications have not been published in the Gazette and therefore, they could not have been taken into consideration and this fact was never brought out to the knowledge of learned Tribunal by the respondents and the learned Tribunal while passing the order placed heavy reliance over these notifications.

5. It has also been averred that as the appointment was for Rajasthan State, which includes Jodhpur office, the requisition was sent to the Regional Director (Northern Region) of the Staff Selection Commission, New Delhi and had Jodhpur been in Gujarat Region, then the competent authority for Gujarat Region for recruitment was Regional Director (Western Region) Staff Selection Commission, Bombay. In the present case the requisition having been sent to Regional Director (Northern Region) Staff Selection Commission, New Delhi, therefore, it cannot be said that Jodhpur Division is under of Gujarat Region because in that case, the requisition have been sent to Regional Director (Western Region) Bombay and it has been urged that on this ground the order requires to be reviewed.

6. It has been further averred that the Tribunal has not taken into consideration the condition imposed by the Staff Selection Commission regarding seniority, wherein it was mentioned that four persons including the applicant recommended by the Staff Selection Commission will remain enblock senior to those in the reserve list or those appointed later.

7. The applicant has also averred that the learned Tribunal while dismissing the OA of the applicant has held that the applicant has not challenged the order whereby he was assigned bottom seniority in the year 2005 but the Tribunal has not considered the facts and further the learned Tribunal relied upon the fact that the applicant himself has submitted affidavit agreeing to the bottom seniority. The applicant's affidavit does not stop him from raising the issue because Rule of Estoppel is not applicable against the statute.


8. On all these and related other grounds mentioned in the Review Application, the applicant has sought for review of order dated 11.12.2015 passed by the learned Tribunal in OA No. 291/00147/2014.

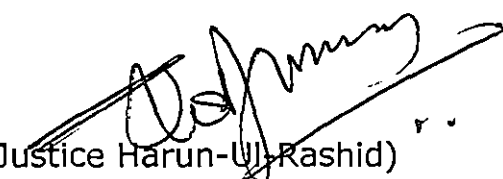
9. We have perused the Review Application, the judgment under the review and the record of the case. As regard the notifications, it is a fact that they were presented during the course of arguments, but it was not contended by the counsel for applicant at that time that they have not been published in the gazette and if not what are the relevant applicable rules. Thus there was no reason for the Tribunal to presume that they were not published in the gazette. Further, other issues raised in the Review Application regarding the fact that the requisition was sent to Regional Office Northern Region (Delhi) and not to Western Region (Bombay), fulfilling of the condition of seniority as per the directions of Staff Selection Commission, question of estoppel after the applicant had himself given consent to his transfer and shifting to Jaipur Headquarter Office on bottom seniority, and not having challenged the order

made, way back in 2005, are all issues that touch the merit of the case. These are not points which can said to be errors apparent on the face of record. In fact if appears that by way of this application, the applicant has challenged the legality of the order of the Tribunal on merits. In our considered view, while deciding these by way of review shall, in effect, touch the merit of the case, which does not come within the purview of Order 47 Rule 1 CPC.

10. The Hon'ble Apex Court in Ajit Kumar Rath V. State of Orissa and Others- (1999) 9 SCC 596 has held that power of review available to the Tribunal under Section 22(3)(f) is not absolute and is the same as given to a Court under S.114 read with Order 47 Rule 1 of CPC. It has further been held that the scope of review is limited to correction of a patent error of law or fact which stares in the face, without any elaborate argument being needed to establish it and that exercise of power of review on a ground other than those set out in order 47 Rule 1 amounts to abuse of liberty granted to the Tribunal and hence review cannot be claimed or asked merely for a fresh hearing or arguments or correction of an erroneous view taken earlier.

11. In view of the above analysis and position, and since the scope of review is very limited there appears no need to issue notice on the Review Application and the same is dismissed by circulation.

  
(Ms. Meenakshi Hooja)  
Administrative Member

  
(Justice Harun-Ul-Rashid)  
Judicial Member