

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,

JAIPUR BENCH, JAIPUR

Date of order 8-7-96

FA No.24/1996 (OA No. 274/95)

Union of India and Ors.

.. Applicants

Versus

Prem Prakash Sharma

.. Respondent

ORDER

PER HON'BLE MR. G.P.SHAHMA, ADMINISTRATIVE MEMBER

In this Review Application filed by Union of India and other official respondents in OA No.274/1995, Prem Prakash Sharma Vs. Union of India and others, the review applicants have prayed that the order dated 18-4-1996 passed in the aforesaid OA by the Tribunal may be recalled and the OA may be decided afresh on merits after hearing the parties concerned.

2. Alongwith the Review Application, a Misc. Application No. 268/96 has also been filed praying that the delay in filing the Review Application may be condoned. In the Misc. Application it has been stated that the Tribunal's order dated 18-4-1996 was received by the review applicants on 22-4-1996 and thereafter it took sometime to examine whether the application for review of the Tribunal's order in the OA was required to be filed. Thereafter the Review Application was filed on 28-5-1996. It is, therefore, prayed that the short delay in filing the Review Application which occurred mainly due to the initiation of the normal procedure of examining the matter at various stages in the offices of the review applicants, consultation with the Railway Advocate etc., may be

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condoned. In the circumstances of the present case, the delay in filing the Review Application is condoned and the Review Application is dealt with on merits.

3. On an examination of the Review Application, we are of the view that it can be disposed of without hearing the parties concerned. Hence the Review Application has been disposed of by circulation.

4. In OA No. 274/1995, the main prayer of the applicant was that since he already possessed necessary qualification of speed of 100 Words Per Minute (WPM) in Hindi Stenography, which was required for the post of Confidential Assistant scale Rs. 1400-2600, he should not be required to appear in the Hindi Stenography Suitability Test with 100 WPM speed to be conducted by the respondents. It was the contention of the applicant that he had passed the Hindi Stenography Test conducted by the Rajbhasha Adhikari/Hindi Officer attached to the office of the Divisional Railway Manager, Jaipur. The Tribunal observed that the question before it was whether the test conducted by the Rajbhasha Adhikari/Hindi Officer of the Ministry of Home Affairs could be treated as equivalent to that conducted by the Department itself and, therefore, whether the applicant could be granted exemption from appearing in the departmental test. The Tribunal held that although the Rajbhasha Adhikari/Hindi Officer is an official of the Ministry of Home Affairs, he is attached to the office of the Divisional Railway Manager. The Tribunal referred to Annexure-A6 dated 29-2-75 attached to the OA which exempted those who have already passed the Incentive Test with speed of 100 WPM from appearing in the Suitability Test. The Tribunal further found that there

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was no other Incentive Test apart from that conducted by the Rajbhasha Adhikari/Hindi Officer, which the applicant had passed. The attention of the Tribunal was, however, drawn on behalf of the respondents to the fact that Annexure-A6 of the OA was of 1975 whereas the applicant had been asked to appear in the departmental test by communication Annexure-A14 dated 8-3-95 and in this Annexure-A14 there was no mention about exemption being granted on his having passed any other test. The Tribunal observed that vide Annexure-A5 which was issued as late as 21-5-93 by which also candidates were asked to appear in the departmental test, there was a clear mention that if candidates have already passed speed test in stenography with 100 WFM, they should produce proof to this effect. Also the Department had not shown that the instructions at Annexure-A6 dated 29-2-75 stood withdrawn or cancelled at any time thereafter. Accordingly the Tribunal came to the conclusion that in view of the contents of Annexure-A6 dated 29-2-75 annexed to the OA, if the applicant had already passed the test in Hindi Stenography with speed of 100 WFM, he was not required to appear for and pass the departmental test conducted for the purpose of promotion to the post of Confidential Assistant scale Rs. 1400-2600. Since the applicant had passed the speed test conducted by the Rajbhasha Adhikari/Hindi Officer with speed of 100 WFM, the Tribunal held that the applicant was not required to pass the speed test to be conducted by the Department.

4. In the Review Application, the review applicants have stated that had the Tribunal considered the instructions contained in letter dated 22-4-94 (Annexure-R1) annexed to the reply of the respondents to the OA, it

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would not have come to the conclusion that the Incentive Test referred to in Annexure-A6 to the OA, conducted by the Rajbhasha Adhikari was a proper, prescribed Suitability Test for regularisation/promotion to the post of Confidential Assistant. They have added that the instructions contained in the letter dated 6-1-92 (Annexure-E2) annexed to the reply to the Show Cause Notices issued to the respondents in the OA, wherein it had been reiterated that regular promotions of Stenographers could be granted only on passing the prescribed speed test of 100 WPM, had escaped the notice of the Tribunal as there is no reference to said letter in the Tribunal's order dated 18-4-1996.

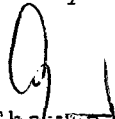
5. We have considered the matter carefully in the light of the averments in the Review Application and the material on record including the OA, the Annexures thereto and the replies and Annexures thereto. After examining all the material on record and the averments of the parties and the oral arguments at the time of hearing, the Tribunal came to the conclusion that the Incentive Test referred to in Annexure-A6 dated 29-2-75 was the one conducted by the Rajbhasha Adhikari/ Hindi Officer which the applicant had passed with speed of 100 WPM. There was no indication that the instructions contained in Annexure-A6 granting exemption to the persons who had passed the Incentive Test from appearing in any fresh departmental test, had been withdrawn. Therefore, subsequent communications calling upon the applicant to appear in the departmental speed test were not justified. The Tribunal had considered the implications of Annexure-F1 dated 22-4-1994 annexed to the OA by which the General Manager,

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Western Railway had replied to the Divisional Railway Manager, Jaipur stating, inter alia, that there are no instructions of the Railway Board for regularisation of Hindi Stenographers who have qualified in speed test of 100 WPM in examinations conducted by the Esjbhasha Vibhag, Ministry of Home Affairs, New Delhi. However, in the light of the contents of communication Annexure-A6 dated 29-2-75 the Tribunal had come to the conclusion that there was no merit in the case of the respondents. There may have been no specific mention of Annexure-E2 dated 6-1-92 in the order of the Tribunal but the entire issue was examined by the Tribunal on merits. Annexure-E2 annexed to the reply to the Show Cause Notice issued to the respondents does not state anything which requires reconsideration of the view already taken by the Tribunal. What the review applicants are in fact urging now is that the Tribunal should re-appraise the evidence already on record and come to a conclusion different from the one arrived at earlier. This is not within the scope of the review as envisaged in Order XXXXVII Rule 1 of the Code of Civil Procedure. There is no fact or averment contained either in Annexure-E2 to the reply to the Show Cause Notice or any other material on record which has escaped the notice of the Tribunal and which therefore justifies the review of the order already passed.

6. In these circumstances, the Review Application is rejected in limine.

By circulation.


(O.P. Sharma)

Administrative Member


(Gopal Krishna)

Vice Chairman