

**IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : JABALPUR BENCH
AT JABALPUR**

**No. R.A. No.13 of 2006
(O.A. No.825 of 2005).**

DATE OF ORDER : 13.9.2006.

Hon'ble Dr.G.C.Srivastava, Vice-Chairman.

Hon'ble Shri G.Shanthappa, Member (J).

BETWEEN :

- 1. Akilluddin Jamali S/o Shri K.Jamali,**
Aged about 45 years,
Goods Driver,
R/o 160-RB-II, Railway Colony,
West Central Railway, Guna (M.P.).
- 2. Kishore Singh S/o Shri Bhagwan Singh,**
Aged about 46 years,
Goods Driver,
R/o Achwal Ward Bina,
Dist : Sagar (M.P.).
- 3. Malhare Meena,**
Aged about 43 years,
Sr.Goods Driver,
C/o Loco Foreman,
Dist : Guna, Guna (M.P.).
- 4. Raj Kishore Sahu S/o Shri V.D.Sahu,**
Aged about 46 years,
Goods Driver,
C/o Loco Foreman,
Dist : Guna,
Guna (M.P.).
- 5. Man Mohan S/o Shri Ram Dayal,**
Aged about 43 years,
Goods Driver,
C/o Loco Foreman,
Dist : Bina,
Sagar (M.P.).

6. Hari Ram S/o Shri Bhagwan Dass,
Aged about 53 years,
Sr. Goods Driver,
R/o Type G-5-B, Railway Colony,
Dist : Bina,
Sagar (M.P.).

... Applicants

(By Shri L.S.Rajput, Counsel.)

A N D

1. Union of India through
General Manager,
West Central Railway,
Indira Market,
Near Railway Station,
Jabalpur-482 001.
2. Divisional Railway Manager,
West Central Railway,
Habibganj, Bhopal (M.P.).
3. Sr. Divisional Personnel Officer,
West Central Railway,
Bhopal (M.P.).

... Respondents

Disposed of by Circulation.

ORDER

(G. Shanthappa, Member (J))

The impugned order in this Review Application is the order dated 28.3.2006 passed by this Bench in O.A. No.825 of 2005.

2. This Review Application has been filed u/s 22(f) of the AT Act, 1985, read with Rule 17 of CAT (Procedure) Rules, 1987, praying for "review/recall of the order dated 28.3.2006 in O.A. No.825/2005 and modify the same by holding that the applicants are entitled for seniority as Fireman-II w.e.f. 24.3.1988 and further promotions as Diesel Assistants, Goods Drivers, Sr. Goods Drivers and Passenger Drivers from the dates their juniors were promoted to these posts,

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with all consequential benefits flowing from revision of their seniority."

3. We have carefully perused the relief prayed for in the R.A. and have gone through the impugned order. In para 8 of the impugned order it was made clear that "We, however, expect that the respondents will keep our observations in respect of the case of Dhaniram Mangal in mind while considering his promotion and refixation of seniority, if it becomes necessary in future." This observation was made in the impugned order only to emphasize that no special treatment in the matter of promotion should be given in future, as was the case in the past.

4. We have observed in para 7 that "As per the statement made by the applicants in their application, none of them were declared suitable for appointment as Fireman-II before 13.7.1987". This was also true in respect of Malhare Meena and Man Mohan who passed the suitability test on and not before 13.7.1987. Hence they were rightly not included in the promotion list of 24.3.1988, which included names of those who had passed the suitability test before this date.

5. As per the judgments of Hon'ble Apex Court, the scope of review is very limited. Review is permissible within the ambit of Order XLVII Rule 1 of CPC. The Hon'ble Supreme Court in the case of Ajith Kr. Rath vs. State of Orissa (1999 (9) SCC 596 has held that -

"29. In review proceedings, the Tribunal deviated from the principles laid down above which, we must say, is wholly unjustified and exhibits a tendency to rewrite a judgment by which the controversy had been finally decided. This, we are constrained to say, is not the scope of review under Section 22(3)(f) of the Administrative Tribunal Act, 1985, which provides as under :

22.(1)-(2) xxx xxx xxx



(3) A Tribunal shall have, for the purposes of discharging its functions under this Act, the same powers as are vested in a civil court under the Code of Civil Procedure, 1908 (5 of 1908), while trying a suit, in respect of the following matters, namely -

(a)-(e) xxx xxx xxx

(f) reviewing its decisions;

(g)-(i) xxx xxx xxx

30. The provisions extracted above indicate that the power of review available to the Tribunal is the same as has been given to a court under Section 114 read with Order 47 CPC. The power is not absolute and is hedged in by the restrictions indicated in Order 47. 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 or error apparent on the face of the 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 face 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.

31. Any other attempt, except an attempt to correct an apparent error or an attempt not based on any ground set out in Order 47, would amount to an abuse of the liberty given to the Tribunal under the Act to review its judgment."

A similar view has been held by the Apex Court in the case of UOI vs. Tarit

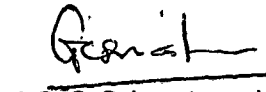


Ranjan Das (2004 SCC L&S 160). That being the position, this R.A. is found to be without any merit.

6. We have carefully perused the pleadings in the R.A.s and gone through the impugned order and applied the decisions referred above. There is no error apparent on the face of the record, neither arithmetical mistakes nor clerical error in the impugned order.

7. The review applicants have not made out a case for grant of relief. The R.A. is rejected with no order as to costs.


(G. Shanthappa)
Member (J)


(G.C. Srivastava)
Vice -Chairman

rs.

पूछांकन सं ओ/न्या.....जबलपुर, दि.....

प्रतिलिपि अबो धित :-

- (1) सचिव, उच्च न्यायालय एवं एडमिनिस्ट्रेशन, जबलपुर
- (2) आदेशक श्री/श्रीमती/बु.....के कार्यालय
- (3) प्रत्येकी श्री/श्रीमती/बु.....के कार्यालय
- (4) कोर्टवाला, स्टे.प्र.अ., जबलपुर जलपरीक्षा सचयन एवं आवश्यक कार्यवाही किये

उप निवेदन

Issued
on 21.3.06
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L.S. Roy Pat-
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