

Central Administrative Tribunal  
Jabalpur Bench

RA No.28/2007  
IN OA 763/99

Jabalpur, this the 14<sup>th</sup> day of October 2008.

**C O R A M**

**Hn'ble Shri Mukesh Kumar Gupta, Judicial Member  
Hon'ble Shri Ranbir Singh, Administrative Member**

1. Union of India through Chairman  
Ordnance Factory Board  
10-A, S.K.Bose Road, Kolkata.
2. Secretary (DP&S)  
Department of Defence Production  
& Supplies, Ministry of Defence  
South Block, New Delhi.
3. General Manager  
Gun Carriage Factory  
Jabalpur (MP).

**Review applicants**

(By advocate : Sh.P.Shankaran)

**Versus**

1. Shri Rajendra Singh  
Son of Shri Bhikam Singh  
Junior Hindi Translator  
Ordnance Factory, Khamaria  
Jabalpur Distt. (MP)
2. Shri Arya Harish Ram  
Senior Hindi Translator  
Ordnance Factory  
Bandmal
3. Shri Ran Rai  
Senior Hindi Translator  
Small Arms Factory

*[Signature]*

**Kalpi Road  
Kanpur (UP).**

4. **Shri S.K.Sharma**  
Junior Hindi Translator  
Ordnance Factory Bard  
(Now Hindi Officer)  
Kolkata – 700 001.
5. **Shri R.D.Patil**  
Junior Hindi Translator  
(Now Hindi Officer) Engine Factory, Avadi  
Tamil Nadu.
6. **Shri Jagish Gupta**  
Junior Hindi Translator  
(Now Hindi Officer) Ordnance Factory Project  
Medak.
7. **Shri S.D.Ram**  
Junior Hindi Translator (Retd. As Hindi Officer)  
O.F.Dum Dum, Kolkata.
8. **Shri B.G.Kaojiya**  
Junior Hindi Tranmslator  
(New Hindi Officer) Ord. Fy., Trichi  
Tamil Nadu.
9. **Shri Sanjay Tripathi**  
Junior Hindi Translator (Now Senior Hindi Translator)  
Rifle Factory, Ishapore
10. **Shri Suresh Chand Kureel**  
Junior Hindi Translator (Left service)  
Ordnance Equipment Factory  
Kanpur.
11. **Shri Kamala Shankar**  
Junior Hindi Translator (Now Senior Hindi Translator)  
Ammunition Factory  
Kirkee, Pune.

**Respondents**

(By advocate: Sh.V.Tripathi on behalf of  
Sh.S.Paul)

**OR D E R (oral)**

**By Mukesh Kumar Gupta, Judicial Member**

Present RA has been filed by Union of India & Others seeking recall & review of order dated 10.2.2004 vide which OA No.763/99 had been allowed and respondents were directed to assign the applicant appropriate seniority over and above private respondents who were selected subsequently, with all consequential benefits.

2. Initially challenging the said judgment, Writ Petition No.3100/04 (S) was preferred by Union of India before Hon'ble High Court contending, inter-alia, that due to bonafide mistake two important grounds of attack i.e. that applicant in OA was charge-sheeted on 13.11.1990 containing as many as four articles of charges as well as no general vacancy was available for him, could not be taken in the reply filed before this Tribunal. As Hon'ble High Court observed that the same grounds cannot be allowed to be raked up in the writ petition, which plea in fact had not been raised before this Tribunal, permission was sought and granted to withdraw said Writ Petition with liberty to file present RA. Hence the present RA.
3. The basic ground raised in support of claim laid is that order dated 10.2.2004 suffers from error apparent on the fact of records and if it is allowed to stand, it would unsettle the settled position operating since the year 1994. Further more, it will have a cascading effect on the entire cadre. The delay in his appointment was mainly due to the charge sheet pending against him & it could not be attributed to the Department.
4. Respondents (Union of India) reiterated that the two grounds of defence as noticed herein above were not pleaded in the reply due to bonafide mistake.
5. By filing reply the applicant in OA has opposed the RA.

6. We have heard learned counsel for the parties and perused the orders of this Tribunal dated 10.2.2004 as well as High Court's order dated 14.5.2007 in aforesaid Writ Petition. The question which needs consideration is whether non-raising afore-said two grounds of defence could be termed as bonafide mistake or not. The scope of Order 47 Rule 1 C.P.C. has been amply clarified and reiterated time & again that it is an error which is so apparent without requiring detailed reasoning or lengthy arguments alone constitute error apparent on face of the records. Apart from stating that the plea was not raised due to bonafide mistake, no other ground has been urged and pressed in support of present RA. It has been reiterated time again that in the guise of RA, the Tribunal/Court cannot re-hear the matter or re-write a judgment as if sitting in appeal over the judgment passed on an earlier occasion. In our considered view, the plea raised by the respondents i.e. Union of India that they committed a bonafide mistake in not raising such an important aspect, cannot be accepted. We may note that it is not their case that such important aspects were not within the notice of the officials dealing with the case in question. Though OA was filed in 1999 and the reply was filed in August 2000, the matter was heard only in February 2004. If there was some mistake in filing reply in the year 2000 & they overlooked to bring these aspects then, how it continued to escape the notice of the authorities concerned for long4 years thereafter, is a matter of concern. We would not be justified in condoning such wanton mistake which cannot be termed and described as a bonafide mistake, as projected. In our considered view, the Union of India has failed to establish that their plea is squarely covered within the parameters of 047R1,CPC.

7. In view of the above, finding no error apparent on face of the order dated 10.2.2004, RA is dismissed. No costs.

(Ranbir Singh)  
Administrative Member

(Mukesh Kumar Gupta)  
Judicial Member

aa.

प्रांतिकन दर्ता देशभूमि.....जगलपुर, दि.....

घटिकाना दर्ता देशभूमि.....

(1) रामिल, दर्ता देशभूमि, जगलपुर दर्ता देशभूमि, जगलपुर

Shri P. Shankaran.

(2) एमेल, दर्ता देशभूमि.....के विवरण

Shri S. Paul

(3) घटिकाना दर्ता देशभूमि.....के विवरण

Bishwanath

(4) जंगलपुर, दर्ता देशभूमि, जंगलपुर दर्ता देशभूमि

जनुवारी 2008

के दर्ता देशभूमि, जंगलपुर (म.प्र.)

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