

**Central Administrative Tribunal
Jabalpur Bench**

**RA No.28/2007
IN OA 763/99**

Jabalpur, this the 14th 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



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 Translator
(Now 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)



ORDER (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.

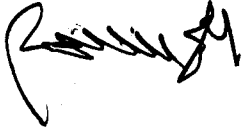
5. By filing reply the applicant in OA has opposed the RA.



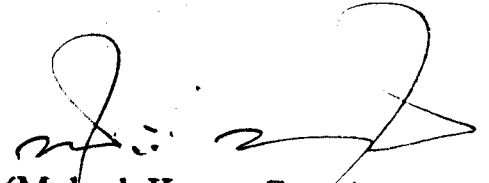
6. We have heard learned counsel for the parties and perused the orders of this Tribunal dated 10.2.2004 as well as High Court's order dated 14.5.2007 in aforesaid Writ Petition. The question which needs consideration is whether non-raising afore-said two grounds of defence could be termed as bonafide 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 long 4 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.

पृष्ठान्कन से दो/दोसा.....जबलपुर, दि.....

प रि वि नि र्ण यजबलपुर

(1) सविता, जयपुर, जयपुर नगर पुरवर्गि, जयपुर, जबलपुर

(2) आनन्दप्रसाद, जयपुर, जयपुर नगर पुरवर्गि, जयपुर, जबलपुर

(3) प्रत्यक्षी, जयपुर, जयपुर नगर पुरवर्गि, जयपुर, जबलपुर

(4) जयप्रकाश, जयपुर, जयपुर नगर पुरवर्गि, जयपुर, जबलपुर

राज्य एवं आचल्यता कार्यवाही हेतु

Shri P. Shankaran.

Shri S. Paul

Bhawanji

अनुमानित प्राप्ति 24/10/08

जबलपुर (म.प्र.)

24/10

24.10.08