

**CENTRAL ADMINISTRATIVE TRIBUNAL
CHANDIGARH BENCH**

Date of order: 20.08.2016.

Review Application No.060/00035/2016

IN

**OA No. 060/00341/2014 &
MA No.060/00804/2016**

Anil Kumar & Others

.....Applicants

VERSUS

Union of India and Others

.....Respondents

ORDER (in circulation)

HON'BLE MRS. RAJWANT SANDHU, MEMBER(A):-

1. This RA has been filed by the applicants under Section 22 (3) (f) of the AT Act, 1985, read with Order 47 Rule 1 CPC seeking review of order dated 04.04.2016 (Annexure RA-1) in OA No.060/00341/2014.

2. MA No.060/00804/2016 has been filed under Section 21 (3) of the Administrative Tribunal Act, 1985, read with Section 5 of the Limitation Act, for condonation of delay of 58 days in filing the RA. It is stated therein that after the order dated 04.04.2016 that is the subject of the RA was received by the applicants, one of the applicants submitted application under RTI Act, 2005; on 10.05.2016 seeking certain information and the same was received on 27.06.2016. Hence, there was some delay in filing the RA.

3. In the RA, the following grounds have been taken:-

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- "1. After the decision in the case one of the applicants submitted application under RTI Act 2005 on 10.05.2016 (Annexure RA-3) in the office of Divisional Railway Manager seeking letter no.Vig./Sr. DME(O&F)13/M1/dt. 15.01.2014 for the reason that the respondents have taken a specific plea in there reply that the vigilance recommendation dated 07.10.2013 (Annexure A-11) stood withdrawn by Deputy CVO (M) letter dated 07.03.2014 which they had annexed as Annexure R-5. The short letter dated 07.03.2014 relied upon letter of Senior DME dated 15.01.2014 and the aforesaid letter, the contents thereof were never brought to the notice of the Hon'ble Bench by the respondents although the same was very relevant. That vide letter dated 31.05.2016 (Annexure RA-4), the information sought under RTI, was declined stating that the case was under investigation. The applicant went in appeal dated 08.06.2016 (Annexure RA-5) before the ADRM and during pendency of which the letter dated 15.01.2014 based upon which the order dated 07.03.2014 had been passed, was supplied to the applicant vide covering letter dated 27.06.2016 (Annexure RA-6).
2. That another aspect needs to be clarified by the applicant is with regard to eligibility of applicant no.1. So far as applicant no.1 is concerned since he was holding the post of Power Controller after being posted as such vide order no.755-E/01/Drafted/PLV/P2/UMB dated 21.09.2005 (Annexure RA-7), he was later repatriated vide letter no.595-M/04/02-1/M-1/10 dated 18.04.2011. The candidature of the petitioners, being eligible as per circular dated 05.09.2009 (Annexure A-3), was accepted by the respondents and they were all called for written examination which was conducted on 09.01.2010, 16.01.2010, 23.01.2010 and 31.01.2010. The result of qualified candidates who were to be further considered for empanelment to the post of Loco Inspector was declared by the respondents vide letter no.755/1/Loco Inspector/Set./Pt.-IIII/O-2A dated 09.04.2010 (Annexure A-5) in which name of the applicants were shown at serial no.45, 7, 48, 1 and 46 and they were declared pass in the written examination including applicant no.1. Names of respondents no.6 to 12 were shown at sr. nos.3, 5, 20, 34, 36, 47 and 51. In the light of the above the finding with regard to the ineligibility of the applicant no.1 needs to be revisited."

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4. The paper-book relating to OA No.060/00341/2014 and the order dated 04.04.2016 have been perused carefully. The RA has been filed seeking to place additional material on record which could well have been obtained by the applicants during the pendency of the OA and before the matter was taken up for decision. Regarding eligibility of applicant no.1, the information now being brought on record amounts to reopening the whole matter and this is not within the scope of an RA. The Apex Court in **Civil Appeal No. 1694 of 2006 (State of West Bengal and Ors. Vs. Kamal Sengupta and another)** decided on 16.06.2008, provided guidance regarding consideration of pleas for review of orders passed by the Tribunal in OA₄ as follows:-

- "(i) The power of the Tribunal to review its order/decision under Section 22(3)(f) of the Act is akin/analogous to the power of a Civil Court under Section 114 read with Order 47 Rule 1 of CPC.
- (ii) The Tribunal can review its decision on either of the grounds enumerated in Order 47 Rule 1 and not otherwise.
- (iii) The expression "any other sufficient reason" appearing in Order 47 Rule 1 has to be interpreted in the light of other specified grounds.
- (iv) An error which is not self-evident and which can be discovered by a long process of reasoning, cannot be treated as an error apparent on the face of record justifying exercise of power under Section 22(3)(f).
- (v) An erroneous order/decision cannot be corrected in the guise of exercise of power of review.
- (vi) A decision/order cannot be reviewed under Section 22(3)(f) on the basis of subsequent decision/judgment of a coordinate or larger bench of the Tribunal or of a superior Court.

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- (vii) While considering an application for review, the Tribunal must confine its adjudication with reference to material which was available at the time of initial decision. The happening of some subsequent event or development cannot be taken note of for declaring the initial order/decision as vitiated by an error apparent.
- (viii) Mere discovery of new or important matter or evidence is not sufficient ground for review. The party seeking review has also to show that such matter or evidence was not within its knowledge and even after the exercise of due diligence, the same could not be produced before the Court/Tribunal earlier."

In view of the observations of the Apex Court in sub paras (iv), (vii) and (viii) above, this RA does not merit consideration and the same is rejected.


(RAJWANT SANDHU)
MEMBER (A)


(JUSTICE L.N. MITTAL)
MEMBER(J)

Dated: 20.8.2016

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