

Central Administrative Tribunal
Principal Bench
New Delhi

R.A.No.177/2016
in
O.A.No.977/2013
M.A.No.2543/2016
C.P.No.503/2015

Order Reserved on: 02.09.2016
Order pronounced on 07.09.2016

Hon'ble Shri V. Ajay Kumar, Member (J)
Hon'ble Dr. Birendra Kumar Sinha, Member (A)

Akhil Bhartiya Operational Staff
Assocaition (Regd.) & Ors. ... Applicants

v.

Union of India & Ors. ... Respondents

In the matter of:

1. All India Technical Staff Welfare Association (Regd.)
DCPW, MHA, V.F.Martin, Sr. Technical Assistant
Aged about 59 years
S/o Late Sh. A. Martin, DG-2, 237C
Vikas Puri, New Delhi.
2. Gyan Pal, Sr. Technical Assistant
Aged about 55 years
S/o Late Sh. Beta Lal
R/o RC-1201, Pragati Vihar, Khora
Ghaziabad, U.P.
3. Vijay Singh,
Sr. Technical Assistant
Aged about 56 years

S/o Late Sh. Nand Ram
R/o RC-1152, Pragati Vihar
Khora
Ghaziabad, U.P.

... Review Applicants

(By Advocate: Mr. M.K.Bhardwaj)

Versus

Union of India & Ors. Through

1. The Secretary
Ministry of Home Affairs
North Block
New Delhi.
 2. The Director
DCPW (MHA), Block No.9
CGO Complex, Lodhi Road
New Delhi.
 3. The Secretary
Department of Personnel & Training
North Block
New Delhi .
- Respondents

ORDER

By V. Ajay Kumar, Member (J):

Heard Shri M.K.Bhardwaj, the learned counsel for the Review Applicants.

2. In the circumstances and in the interest of justice, and for the reasons mentioned therein, the MA No.2543/2016, filed for condonation of delay in filing the RA, is allowed.

3. The OA No.977/2013 is filed by Akhil Bharatiya Operational Staff Association, Directorate of Coordination (Police Wireless), Ministry of Home Affairs, represented by its General Secretary, along with 8 other individuals, who are the members of the 1st Applicant-Association and working as Senior Supervising Officers in the Directorate of Coordination (Police Wireless) under the Ministry of Home Affairs, seeking a direction to the respondents to follow the instructions of the DoP&T for separate promotion quota for the post of Extra Assistant Director (in short, EAD) in keeping with the overall cadre strength of each wing, i.e., 63% for Operational Wing, 35% for Maintenance Wing and 2% for Store Wing by amending the Recruitment Rules dated 20.07.1974 in a time bound manner.

4. The respondents in their counter filed in the OA stated that steps have been taken by the Directorate to remove the anomalies and for that purpose, to rationalize the existing Recruitment Rules in view of the DoP&T OM referred by the applicants, a proposal for amendment of the Recruitment Rules for the post of EAD is under process and cadre review committee has been formed.

5. This Tribunal, in view of the aforesaid submissions of the parties, disposed of the OA on 24.03.2014, with direction to the respondents to complete the exercise already undertaken in respect of the fresh cadre review/amendment in the Recruitment Rules for promotion to the post of Extra Assistant Director, expeditiously preferably within a period of six months.

6. All India Technical Staff Welfare Association, Directorate of Coordination (Police Wireless), Ministry of Home Affairs, along with two other Senior Technical Assistants, who are being members of the 1st Review Applicant-Association, filed the present Review Application under Section 22(f) of the Administrative Tribunals Act, 1985 read with Rule 27 of the Central Administrative Tribunal (Procedure) Rules, 1987, seeking to review the Order dated 24.03.2014 in OA No.977/2013.

7. Shri M.K.Bhardwaj, the learned counsel for the review applicants, while admitting that the official respondents have not complied with the orders of this Tribunal dated 24.03.2014 in OA No.977/2013, till date, submits that if the official respondents comply with the orders of this Tribunal, the rights of the review applicants will be affected, and, hence, the orders in the OA are required to be recalled and the OA should be heard afresh after impleading the review applicants as respondents in the OA. The learned counsel further submits that since this Tribunal directed the official respondents to act in a particular manner, and if the respondents in compliance of the said direction amend the Recruitment Rules, the rights of the review applicants will be affected adversely, and hence, the orders in the OA are liable to be recalled as the same were passed without impleading and hearing the review applicants.

8. A perusal of the Order dated 24.03.2014 in OA No.977/2013 indicates that this Tribunal while disposing of the OA has not examined the veracity of either the contentions of the applicants or the stand of the official respondents. It has simply recorded the rival submissions and since the official respondents submitted that they are in the process of amending the Recruitment Rules, as prayed by the applicants in the OA, disposed of the same directing the respondents to complete the exercise already undertaken by them.

9. Admittedly, till date, the official respondents have not passed any order which is alleged to be adverse to the rights of the review applicants. Similarly, this Tribunal, while disposing of the OA, has not given any finding which is adverse to the interest of the review applicants. It is always open to the review applicants to question the DoPT OM, if adverse to the interest of the review applicants, in pursuance of which the respondents are intending to amend the Recruitment Rules or the Recruitment Rules, if amended in future, independently by filing an OA by them.

10. The contention of the learned counsel that the direction issued to the respondents itself is affecting the rights of the review applicants, and a valid ground for reviewing the orders in the OA, is unsustainable, as this Tribunal has not given any finding on the rights of the review applicants or of the original applicants in the OA. The orders in the OA do not preclude the review applicants from

questioning the actions of the respondents, if adverse to their interest, in accordance with law.

11. In the circumstances and for the aforesaid reasons, we do not find any valid reason to invoke the review jurisdiction of this Tribunal and accordingly, the RA is dismissed. No costs.

(Dr. Birendra Kumar Sinha)
Member (A)

(V. Ajay Kumar)
Member (J)

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