

**Central Administrative Tribunal
Principal Bench, New Delhi**

R.A. No.252/2017 in O.A. No.3596/2013

This the 2nd day of February 2018

**Hon'ble Mr. Justice Permod Kohli, Chairman
Hon'ble Mr. K.N. Shrivastava, Member (A)**

1. Smt. Ammini Rajan w/o Shri K R Rajan
r/o 1183, Sector 37
Arun Vihar, Noida – 201303
2. Shri R K D Mangal s/o late Shri Jia Lal
r/o C-22 D, Hari nagar, New Delhi – 110 064
3. Shri Baldev Singh s/o S. Kartar Singh
r/o Pragati Apartments, Paschim Vihar
New Delhi – 110 063
4. Shri G K Pandey s/o Shri B M Pandey
r/o 40/21-A Gautam Nagar
New Delhi – 110 049

..Applicants

Versus

1. Union of India through Secretary
Ministry of Defence
South Block, New Delhi – 110 011
2. JS (Trg.) and CAO
Ministry of Defence
E Block Hutmants
Dalhousie Road
New Delhi – 110 011

..Respondents

O R D E R (in circulation)

Mr. K.N. Shrivastava:

Through the medium of this R.A., the review applicants have sought review of this Tribunal's order dated 19.07.2016 passed in O.A.

No.3596/2013. The applicants had prayed for the following reliefs in the said O.A.:-

“(a) Quash and Set-aside the impugned orders at ANNEXURE A-1 AND A-2 and the resultant promotion lists in the grade of CSO (Dy Dir), SCSO (Joint Director) and Director (issued on the basis of the impugned lists) not being in consonance with the MG Bansal’s judgment dated 01.04.2002, in OA No.1356/1997 in Ammini Rajan’s case and in judgment dated 01.09.2005 in OA No.2484/2004 in AFHQ (Direct Recruit-Gazetted) Officers Association. All these judgments have been approved by the Hon’ble Supreme Court in CA No.1384/2008 and 1385/2008 decided on 19.2.2008.

(b) Direct the respondents to restore the seniority of the applicants from the dates when they had initially joined on promotion on being selected to the grade of ACSO on the basis of Select Lists for the years 1978, 1979 and 1980 as under Rule 5 (2) of the Regulations for promotion of officers they once selected cannot be ousted from that Select List.

(c) Direct the respondent to restore their consequential promotion to the grade of CSO (Dy Director) from the dates when they initially joined on being selected by the DPC under the aegis of UPSC for the years 1982 and 1983.

(d) Direct the respondents to re-fix seniority of DRs from the date they had actually joined service and not from the date of occurrence of vacancies.

(e) Direct respondent No.2 to issue year wise seniority list only in all the grades so that a proper accounting of vacancies is done on the basis of the sanctioned permanent strength of service.

(f) Direct the respondents to give the applicants all the consequential benefits of service and pay arising out of the re-fixation of their seniority.

(g) Direct the respondents not to indulge in review of Select Lists of the applicants in any grade as those Select Lists had never been a matter of judicial scrutiny and are still legally valid documents.

(h) Any other relief this Hon’ble Tribunal considers fit and appropriate in the interest of justice.”

2. The O.A. was dismissed vide order dated 19.07.2016; operative part of which reads as under:-

“6. It is seen from Annexure A-1 seniority list that dates of appointment of individual DP/DR officers have been correctly

indicated in the seniority list. This aspect has not been disputed by either of the two parties. The learned counsel for the applicants tried to argue the controversy of inter-se seniority of DPs and DRs *ab initio* but he was told by the Tribunal that the arguments have to be confined to the scope provided in the Annexure A-2A order dated 02.01.2013 of the Hon'ble Supreme Court and that the parties are not allowed to argue on the issue of inter-se seniority, which has since been settled by the said order of the Hon'ble Supreme Court.

7. From the perusal of the records and by scrutinizing the Annexure A-1 seniority list, we are fully convinced that the seniority list is in accordance with the directions of the Hon'ble Supreme Court contained in their order dated 19.02.2008 in SLP no.4545/2007 and 5853/2007. As such, we do not find any merit in the OA. The OA is accordingly dismissed.”

3. As per Rule 17 of CAT (Procedure) Rules, 1987 no application for review shall be entertained unless it is filed within thirty days from the date of receipt of the order sought to be reviewed. This limitation has been further highlighted in the judgment of Hon'ble Supreme Court in **K. Ajit Babu & others v. Union of India & others**, 1997 SCC (L&S) 1520. However, the review applicants approached the *ibid* order of the Tribunal in W.P. (C) No.6986/2017 before the Hon'ble High Court of Delhi, which was allowed to be withdrawn vide order dated 17.08.2017 with the following observations / directions:-

“Mr. Rajappa seeks leave to withdraw the petition with liberty to file the review application.

The petition is, accordingly, dismissed as withdrawn. In case the review is preferred before the Tribunal in the next two weeks, the same may be entertained without raising the issue of limitation.”

4. In view of the observations/directions of Hon'ble High Court, this Review Application is being considered. The review applicants have pointed out certain apparent errors on the face of the Tribunal's order dated

19.06.2016. The errors pointed out, factual position in relation to the errors as well as rectificatory action taken is described below:-

5. In paragraph 2.1 of the order dated 19.07.2016, it is stated that “the Armed Forces Headquarters Civil Service (AFHCS) was created vide Annexure A-4 order dated 28.11.1968.” It is pointed out by the review applicants that in the year 1968, the erstwhile service of Armed Headquarter Service was notified as AFHCS and brought into effect from 01.04.1968. This position is absolutely correct. Hence, paragraph 2.1 of the order dated 19.07.2016 should now read as “Government of India rechristened the erstwhile Armed Headquarter Service as AFHCS in the year 1968 and made it effective from 01.04.1968”.

5.1 In paragraph 2.2 of the order dated 19.07.2016, it is stated that “..The direct recruits (DRs) started joining AFHCS from October, 1970....”. From the records, it is noticed that for the first time in October, 1970, vacancies for direct recruits (DRs) were created. Obviously, the DRs would have joined the post after October 1970. Hence, in paragraph 2.2 of the order under review, following correction is required to be effected.

“The DRs started joining AFHCS after October, 1970....”

5.2 In paragraphs 2.2 & 2.3 of the order under review, it is stated that “This Tribunal in the said TA-356/1985 had examined the legality of the seniority list of ACSOs as on 01.10.1997, which was notified on 18.10.1997”. From the verification of records, it is noticed that there is typographical error. The year has been incorrectly mentioned as 1997, whereas it should have been 1977. Hence, the above paragraphs must read as under:-

“The Tribunal in TA-356/1985 had examined the legality of the seniority list of ACSOs as on 01.10.1977, which was notified on 18.10.1977.”

5.3 The review applicants have stated that the revised seniority list has been issued in violation of the judgment dated 20.11.1992 in **M.G. Bansal & others v. Union of India & others** (T.A. No.356/1985) (on remand) and the same was challenged by the applicants by filing O.A. No.1356/1997 before this Tribunal. Hence, the observation of the Tribunal that the controversy was adjudicated by it vide order dated 01.04.2002 in O.A. No.1356/1997 is perfectly in order and hence this paragraph does not need any correction / amendment.

5.4 From the verification of records, it is found that the applicants – Sanjay Singh & others were not departmental promotees (DPs) but they were DRs and that the seniority list questioned therein was of the year 1977 and not of 1997. In paragraph 2.8 of the order under review, the order of the Tribunal referred therein actually is to the order dated 01.04.2002 in O.A. No.1356/1997. Hence, paragraph 2.8 is modified as under:-

“That there was yet another OA-2740/2005 filed by Shri Sanjay Sinha and others, who were DRs questioning the 1977 seniority list. The said OA was disposed of on 08.02.2007. The order dated 01.04.2002 in O.A. No.1356/1997 was challenged both by DPs and DRs in W.P. (C) No.4458/2002 and W.P.(C) No.62/2003.....”

5.5 In paragraph 2.11 of the order under review, it is mentioned as under:-

“.....The Hon’ble Apex Court, however, observed that errors may have been committed with regard to the dates of appointment of the respective parties and thus gave liberty to the applicants to challenge the seniority list only on this limited grounds.....”

Though the review applicants have tried to give a twist to this observation of Hon’ble Apex Court but we are of the view that what is mentioned in this paragraph of Tribunal’s order depicts the observations of the Hon’ble Apex Court correctly and hence, it needs no amendment.

5.6 In paragraph 4 of the order under review, it is stated as under:-

“The arguments of the parties were heard again today. Shri Katyal clarified that Annexure A-1 seniority contains names of officers in the grade of ACSOs right from the year 1968 year-wise and it also gives the break-up of DPs and DRs as per their respective quota.....”

The review applicants have tried to argue that despite Tribunal directing the respondents to furnish year-wise seniority list from the year 1968 onwards, they failed to do so and they obfuscated the matter by issuing the composite seniority list after 33 years from 1996 to 2000. This argument of the review applicants had been considered by the Tribunal during the course of adjudication of the O.A., and hence no amendment is required to paragraph 4 of the order.

5.7 In paragraph 6 of the order under review, it is stated as under:-

“It is seen from Annexure A-1 seniority list that dates of appointment of individual DP/DR officers have been correctly indicated in the seniority list. This aspect has not been disputed by either of the two parties....”

The review applicants have tried to argue that this observation of the Tribunal is without any basis and that the date of joining of individual ACSO is not visible in the seniority list. We find that in respect of every individual officer belonging to both DP and DR categories, their dates of birth and their dates of induction in ACSO cadre have been clearly indicated. As a matter of fact, these two parameters are very crucial for deciding the combined inter-se-seniority list of DR and DP officers. Hence, we are of the view that no amendment to paragraph 6 of the order under review is required.

6. The other averments made in the Review Application are basically in the nature of re-arguing the matter, which is impermissible.

7. In view of the discussions in the foregoing paragraphs, the Registry is directed to bring out the necessary amendments as mentioned in paragraph (5) *supra* and issue certified copy of amended order to both the parties.

8. The R.A. is accordingly disposed of.

(K.N. Shrivastava)
Member (A)

February 2, 2018
/sunil

(Justice Permod Kohli)
Chairman