

**Central Administrative Tribunal
Principal Bench**

**RA No.266/2015
in
OA No.3276/2013
MA No.478/2016**

with

**RA No.33/2016
in
OA No.3276/2013
MA No.479/2016
MA No.2472/2013**

New Delhi, this the 4th day of August, 2016

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

1. RA No.266/2015

Ms. Hemlata Mathur & Ors. Review Applicant.

(By Advocates: Shri M. S. Saini & Shri P. S. Khare)

Versus

Union of India & Ors. Respondents.

(By Advocate : Shri R. N. Singh)

2. RA No.33/2016

Union of India & Ors. Review applicants/ Respondents in OA.

(By Advocate : Shri R. N. Singh)

Versus

Ms. Hemlata Mathur & Ors. Review Respondents/Applicants in OA.

(By Advocates: Shri M. S. Saini & Shri P. S. Khare)

: O R D E R (ORAL) :**Justice Permod Kohli, Chairman :****MA No.479/2016.**

Through the medium of this MA, respondents of the OA seek condonation of delay in filing RA No.33/2016.

2. Despite notice in MA, reply has not been filed.
3. We have heard Shri R. N. Singh, learned counsel for the applicants of RA No.33/2016 (respondents of the OA) and Shri M. S. Saini, learned counsel for non-applicants.
4. Shri M. S. Saini submits that he has no objection to the condonation of delay if the RA No.33/2016 is heard on merits today itself.
5. For the above reasons, the condonation application is allowed. Delay in filing RA No.33/2016 is condoned.

RA No.33/2016.

6. Reply to the RA has been filed. We have considered the grounds of review and heard learned counsel for the parties.
7. The review applicants have raised two grounds for invoking the review jurisdiction of this Tribunal. Firstly, that the entire edifice of the judgment under review is an earlier judgment of the Tribunal passed in OA No.3133/2012-Sunder Singh & Ors. vs. Union of India & Ors., decided on 26.09.2012. The said judgment had been stayed by the Hon'ble High Court of Delhi in W.P. (C) No.1024/2014 vide order dated 14.02.2014. It is contended by Shri R. N. Singh that when the judgment under review was delivered by this Tribunal, judgment in OA No.3133/2012 had already been stayed and was not in force or

operation, and thus it was not open to the Tribunal to have relied upon such a judgment. His further contention is that since the entire basis of the judgment under review is judgment in OA No.3133/2012, though the stay order could not be brought to the notice of the Tribunal, but the fact remains that a stay was in existence and the said judgment could not have been relied upon. The other ground is that all the contentions raised by the respondents in their counter affidavit and urged at the time of arguments have not been addressed by the Tribunal. Shri M. S. Saini has also not disputed this fact. We are of the considered opinion that there is error on the face of record.

8. In this view of the matter, this RA is allowed. Judgment dated 17.08.2015 passed in OA No.3276/2013 is hereby set aside.

9. Resultantly, OA No.3276/2013 is revived.

RA No.266/2015.

10. Through the medium of this RA, Shri M. S. Saini, learned counsel for the applicant has brought to our notice an apparent error in the judgment dated 17.08.2015 in OA No.3276/2013.

11. His contention is that the Tribunal in the aforesaid order has referred to RBE Notification No.102/2008 whereby 20% of Office Superintendent Grade-II/OS were to be filled up through LDCE. However, the year of RBE Notification has wrongly been mentioned as 2008, whereas in fact, it was 2005. Treating 2008 as the year of Notification, in para 4, the Tribunal in ultimate para 6 of the judgment, issued directions for consideration of the issue regarding seniority w.e.f. 2007. His contention is that since the Notification was issued in 2005, the consideration should have been w.e.f. 2005.

12. Since we have set aside the judgment under review in RA No.33/2016, the above question can be addressed when the OA which is now revived is argued. This review is thus rendered infructuous.

13. In view of the order passed in RA No.33/2016, all ancillary applications shall stand disposed of.

OA No.3276/2016.

List for hearing on 05.09.2016.

(K. N. Shrivastava)
Member (A)

(Permod Kohli)
Chairman

/pj/