

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

**RA-270/2015 in  
OA-3443/2014**

**Reserved on : 06.01.2016.**

**Pronounced on : 08.01.2016.**

**Hon'ble Mr. V. Ajay Kumar, Member (J)  
Hon'ble Mr. Shekhar Agarwal, Member (A)**

1. Union of India through  
General Manager,  
Northern Railway,  
Baroda House,  
New Delhi.
2. The Chairman,  
Railway Recruitment Cell,  
Northern Railway,  
Baroda House,  
New Delhi. .... Review Applicants

(through Sh. Kripa Shankar Prasad, Advocate)

Versus

Sh. Giriraj Prasad Meena  
Aged about 34 years,  
S/o Sh. Hari Sahay Meena,  
R/o VOP Gullana (Bardangyan Ki Dhani)  
Via Baswa, Distt. Dausa,  
Rajasthan. .... Respondent

(through Sh. Yogesh Sharma, Advocate)

**O R D E R**

**Mr. Shekhar Agarwal, Member (A)**

This Review Application has been filed by the OA respondents for review of our order dated 13.07.2015. The operative part of the order reads as follows:-

“4. In our opinion, the Instructions of the respondents themselves are quite confusing. First in the application form there is a column signature of the applicant. It does not specify whether the signature has to be in Hindi or English. Evidently, both are acceptable as the applicants candidature had not been rejected for signing in Hindi. Thereafter, we notice that in the admit card there are two columns, one requiring the candidate to sign in Hindi and the other requiring the candidate to sign in English. It has not been specified as to whether both signatures are required or whether the candidate has to sign in the same language in

which he has signed in his application form. The manner in which these columns appear in the admit card give the impression that the candidate is required to sign both in Hindi as well as in English. Thereafter, in the OMR sheet, there is only one column requiring candidates signature. Again it is not specified whether the signatures are required in Hindi or in English. The respondents expect the candidates to remember in what language they have signed in their application form and use the same language in the OMR sheet. However, in between the admit card creates confusion since it provides for signature in both. Therefore, if a candidate unfortunately does not remember in what language he has signed in the application form, his candidature is likely to be rejected. In our opinion, this is grossly unfair to the candidates. We also do not agree with the respondents that the applicant has put different signature at different places. In fact, in this case in the application form he had signed in Hindi while in his OMR sheet he has signed in English. Since the respondents accept signature in both languages they cannot claim that he has signed differently at different places. He has in fact only signed in different languages. This is distinct from signing differently in the same language which could give rise to suspicion of impersonation.

5. As far as putting the signature in capital letters was concerned, learned counsel for the applicant had relied on the judgment of Honble High Court in the case of Neeraj Kumar (supra) holding that rejecting of candidature on this ground was not sustainable. We find that this case is squarely covered by the aforesaid judgment.

6. Thus, we are of the view that the applicants candidature can neither be rejected for signing differently at different places nor for signing in English in capital letters. We, therefore, allow this O.A. and quash the impugned order dated 12.06.2014. The respondents are directed not to reject the candidature of the applicant on the ground of putting different signature at different places or for signing in capital letters. His case for appointment may be processed accordingly. In case, he is otherwise eligible, he shall be appointed with consequential benefits of pay fixation and seniority. This exercise shall be completed within a period of eight weeks from the date of receipt of a certified copy of this order. No costs."

2. The review applicants have submitted that this Tribunal has committed an error inasmuch as it has failed to appreciate that putting different signatures at different places would fall in the category of invalid application and that the applicant has acted in complete contravention of the Recruitment Rules and Conditions mentioned specifically in the Notification. Further, they have submitted that this Tribunal ought to have appreciated that the instructions of the respondents were not at all confusing. The respondents have relied on the

judgment of Hon'ble Supreme Court in the case of **UOI & Anr. Vs. Sarwan Ran & Anr.**, (Civil Appeal No. 9388/2014) in which it was held as follows:-

"Condition No. 8.7(i) is one of the conditions mandate mentioned in the employment notice. We are of the view that in non-compliance of such condition, it was always open to the competent authority to reject such application being incomplete. Respondent No.1 having failed to do so, the competent authority has rightly rejected the application. In such circumstances, it was not open to the High Court to direct the authorities to consider the case of respondent no.1 for appointment sitting in appeal over the scrutiny of application by referring to certain certificate of length of service."

3. The respondent in review application (OA applicant) has filed his reply opposing the review application. He has submitted that the review applicants have failed to mention any error in the judgment apparent on the face of the record, and that in fact, they are trying to re-argue the whole case on merits by using the remedy of review application, which is impermissible in law. He has relied on the judgment of Hon'ble Supreme Court in the case of **Chandra Kanta & Anrs. Vs. Shekh Habib**, AIR 1975 SC 500 in which it has been held that review application cannot be used for re-arguing the whole case. He has also relied on the judgment of Hon'ble Supreme Court in the case of **Smt. Meer Bhanya Vs. Smt. Nirmala Kumar Chaudhary**, AIR 1995 SC 455 to say that review cannot be exercised on the ground that the decision was erroneous on merits. Further, he has relied on the judgment of Hon'ble Supreme Court in the case of **UOI Vs. Tarit Ranjan Dass**, 2004 SCC (L&S) 160 to say that the scope of review is limited and it is not open to the Court to act as its own Appellate Authority while hearing a review application.

4. We have heard both sides and have perused the material on record. The review applicants have submitted that this Tribunal committed an error by holding that the instructions of the respondents were confusing and that signing in English and Hindi at different places did not amount to signing differently at

different places. In our opinion, this issue has been discussed in details in our judgment in the paras quoted above wherein detailed reasoning has been given as to why this Tribunal felt that the instructions of the respondents were confusing and also why it cannot be held that signing in different languages did not amount to signing differently in the same language at different places, which was forbidden by the instructions. What the review applicants are now questioning is actually a finding arrived at by us. This is not an error apparent on the face of the record, which could have been ground for review. If the respondents are aggrieved by our findings then they should avail of appropriate remedy. Filing a review application is not the right course of action.

5. While considering the scope of review, Hon'ble Supreme Court in the case of **Aribam Tuleshwar Sharma Vs. Aribam Pishak Sharma**, (1979) 4 SCC 389 referred to an earlier decision in the case of **Shivdeo Singh Vs. State of Punjab**, AIR 1963 SC 1909 and observed as under:-

"It is true as observed by this Court in **Shivdeo Singh v. State of Punjab**, AIR 1963 SC 1909, there is nothing in Article 226 of the Constitution to preclude a High Court from exercising the power of review which is inherent in every Court of plenary jurisdiction to prevent miscarriage of justice or to correct grave and palpable errors committed by it. But, there are definitive limits to the exercise of the power of review. The power of review may be exercised on the discovery of new and important matter or evidence which, after the exercise of due diligence was not within the knowledge of the person seeking the review or could not be produced by him at the time when the order was made; it may be exercised where some mistake or error apparent on the face of the record is found; it may also be exercised on any analogous ground. But, it may not be exercised on the ground that the decision was erroneous on merits. That would be the province of a Court of appeal. A power of review is not to be confused with appellate power which may enable an Appellate Court to correct all matters or errors committed by the Subordinate Court."

5.1 Similarly in the case of **Ajit Kumar Rath Vs. State of Orissa and Others**, AIR 2000 SC 85 the Apex Court reiterated that power of review vested in the Tribunal is similar to the one conferred upon a Civil Court and held:-

"The provisions extracted above indicate that the power of review available to the Tribunal is the same as has been given to a court under Section 114 read with Order 47 CPC. The power is not absolute and is hedged in by the restrictions

indicated in Order 47. The power can be exercised on the application on account of some mistake or error apparent on the face of the record or for any other sufficient reason. A review cannot be claimed or asked for merely for a fresh hearing or arguments or correction of an erroneous view taken earlier, that is to say, the power of review can be exercised only for correction of a patent error of law or fact which stares in the face without any elaborate argument being needed for establishing it. **It may be pointed out that the expression “any other sufficient reason” used in Order 47 Rule 1 means a reason sufficiently in the rule.**

**Any other attempt, except an attempt to correct an apparent error or an attempt not based on any ground set out in Order 47, would amount to an abuse of the liberty given to the Tribunal under the Act to review its judgment.”**

[Emphasis added]

5.2 In the case of **Gopal Singh Vs. State Cadre Forest Officers' Assn. and Others** [2007 (9) SCC 369], the Apex Court held that after rejecting the original application filed by the appellant, there was no justification for the Tribunal to review its order and allow the revision of the appellant. Some of the observations made in that judgment are extracted below:-

“The learned counsel for the State also pointed out that there was no necessity whatsoever on the part of the Tribunal to review its own judgment. Even after the microscopic examination of the judgment of the Tribunal we could not find a single reason in the whole judgment as to how the review was justified and for what reasons. No apparent error on the face of the record was pointed, nor was it discussed. Thereby the Tribunal sat as an appellate authority over its own judgment. This was completely impermissible and we agree with the High Court (Justice Sinha) that the Tribunal has traveled out of its jurisdiction to write a second order in the name of reviewing its own judgment. In fact the learned counsel for the appellant did not address us on this very vital aspect.”

6. Thus, in our opinion, there is no merit in this review application and it is accordingly dismissed. No costs.

**(Shekhar Agarwal)**  
**Member (A)**

**(V. Ajay Kumar)**  
**Member (J)**

/Vinita/