

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

**RA-36/2013 in
OA-2863/2011**

Reserved on : 30.08.2016.

Pronounced on : 02.09.2016.

Hon'ble Mr. Shekhar Agarwal, Member (A)
Hon'ble Dr. Brahm Avtar Agrawal, Member (J)

Sh. Tosh Kumar Nichani,
S/o late Sh. Dharni Dhar Nichani,
Aged about 64 years,
R/o Block No.1, House No.2,
2nd Floor, Subhash Nagar,
New Delhi-110027.

.... Review Applicant

(through Sh. T.D. Yadav, Advocate)
Versus

1. Govt. of NCT of Delhi
through Chief Secretary,
Directorate of Education,
I.P. Estate, New Delhi.
2. Director of Education,
Directorate of Education,
Old Secretariat, New Delhi.
3. The Secretary,
Directorate of Education,
Old Secretariat, Govt. of NCT of Delhi,
New Delhi.

.... Respondents

(through Sh. Amit Anand, Advocate)

O R D E R

Mr. Shekhar Agarwal, Member (A)

This Review Application has been filed for review of our order dated 20.11.2012 passed in OA-2863/2011. Learned counsel for the

review applicant argued that while allowing this O.A. this Tribunal has passed the following order in this case:-

"23. We, therefore, allow this OA and quash and set aside the orders of the Disciplinary Authority and the Appellate Authority dated 20.8.2010 and 11.3.2011 respectively. We, in the above facts and circumstances of the case, direct the Respondents to treat the period of suspension of the Applicant from 09.07.1999 to 31.12.2006 as period spent on duty for all purposes except for back wages. Applicant shall also be granted all consequential benefits including the revised pensionary benefits within 2 months till date of receipt of a copy of this order. No costs."

2. He argued that an error apparent on the face of the record has crept into the order of the Tribunal since after quashing the orders of the Disciplinary Authority (DA) and Appellate Authority (AA) and ordering that the period of suspension from 09.07.1999 to 31.12.2006 be treated as period spent on duty for all purposes, the Tribunal has added the words 'except for back wages' in the order. Learned counsel argued that this was obviously a clerical mistake since the substantive order of the Tribunal is that the period of suspension has to be treated as on duty for all purposes. Thus, there could not have been any reason for not allowing back wages for the same. The applicant has in any case drawn subsistence allowance for this period.

3. Learned counsel for the respondents opposing the review application argued that this was not a clerical error but a conscious decision of the Tribunal. If the applicant was aggrieved by the same, appropriate course of action for him would be to challenge the order of the Tribunal by means of a Writ Petition before Hon'ble

High Court of Delhi. No modification in the order can be done on the basis of this review application.

4. We have heard both sides and have perused the material placed on record. We have gone through our entire order and we find that this Tribunal had quashed the orders of the DA and the AA passed in the disciplinary proceedings. Since the applicant has been fully exonerated as a result of quashing of these orders, the Tribunal had further ordered that the entire period of suspension be treated as 'spent on duty'. The implication is that the Tribunal had found the suspension to be wholly unnecessary and unjustified. Under these circumstances, there was no reason for the Tribunal to deny back wages to the applicant for the period of suspension. It is only inadvertently that the words 'except for back wages' have crept into the order. Therefore, in our opinion, this is an error apparent on the face of the record and deserves to be corrected by means of this review application.

5. Accordingly, we allow this review application and direct that the words 'except for back wages' be deleted from para-23 of our order dated 20.11.2012 making the applicant eligible for payment of pay and allowances during the suspension period as would have been admissible to him for duty period. No costs.

(Dr. Brahm Avtar Agrawal)
Member (J)

(Shekhar Agarwal)
Member (A)

/Vinita/