

Central Administrative Tribunal Principal Bench, New Delhi

R.A.No.97/2015 in M.A.No.2858/2014
O.A.No.1820/2012

Wednesday, this the 2nd day of September 2015

Hon'ble Mr. A.K. Bhardwaj, Member (J)
Hon'ble Mr. Shekhar Agarwal, Member (A)

Mr. Harendra Pratap Singh
s/o Mr. B P Singh
Presently working as Deputy Director (Publicity)
Ministry of Micro, Small & Medium
Enterprises
Govt. of India, Nirman Bhavan, New Delhi

.. Applicant

(Ms. Jasvinder Kaur, Advocate)

Versus

1. Union of India through
Through Secretary
Ministry of Micro, Small & Medium Enterprises
Udyog Bhavan, New Delhi
2. Ministry of Micro, Small & Medium Enterprises
Through Development Commissioner (MSME)
Nirman Bhavan, New Delhi
3. Ministry of Finance
Through Director (Expenditure)
North Block, New Delhi

..Respondents

(Mr. Subhash Gosain, Advocate)

O R D E R (ORAL)

Mr. A.K. Bhardwaj:

In the wake of present Review Application, the applicant has sought the review not only of the Order passed in M.A. No.2858/2014 but also of the Order passed in Original Application itself. It is *stare decisis* that in execution proceedings, the Court cannot go behind the decree/judgment/order. The only direction given by the Tribunal in terms

of the Order dated 11.4.2013 passed in O.A. No.1820/2012 was for reconsidering the case of the applicant by constituting a Departmental Anomaly Committee and referring the matter to Committee after obtaining the advice of Department of Personnel & Training. We could find that an Anomaly Committee was constituted and the Committee had unanimously decided that the case of the applicant might be again referred to the Department of Expenditure to consider his demand. When the matter was referred to the Department of Expenditure through I.F. Wing, the Department agreed to revise the scale in the case of the applicant to PB-3 + Grade Pay `5400/- w.e.f. 6.5.2013. *Ergo* the approval of competent authority was accorded to grant the upgraded scale of `8000-275-13500 (PB-3 + Grade Pay `5400/-) to applicant.

2. During the course of arguments, learned counsel for applicants vehemently espoused that once the applicant has not been granted the Pay Band + Grade Pay `5400/- (corresponding pre-revised scale) w.e.f. 1.1.2006, there is no compliance of the Order of the Tribunal passed in Original Application and Order passed in execution application is apparently erroneous. It is also her argument that the removal of disparity in Pay Band did not require amendment in the Recruitment Rules as the qualification was never an issue in the upgradation or promotion.

3. A plain reading of the Order passed in O.A. No.1820/2012, execution of which was sought in M.A. No.2858/2014, nowhere indicate that the applicant was required to be given PB-3 + Grade Pay `5400/- w.e.f.

1.1.2006. Rather we find from paragraph 8 of the Order dated 11.4.2013 that the Anomaly Committee was required to take into consideration an advice given by the Department of Official Language as well as Ministry of Finance and it was also required to be taken into consideration that there was anomaly in the Recruitment Rules, namely, while three years' service was sufficient for Translators to be promoted as Hindi Officer for promotion to the post of Assistant Director (Publicity), the required length of service in feeder category was five years.

4. It is settled position of law that after passing the order, the Tribunals and Courts become *functous officio*. Only exception to such principle is review, which is permissible only on limited grounds, i.e., there being an error apparent on the face of record, some documents, which could not be brought to the notice of the Court despite due diligence, are found and brought on record or any other sufficient reason. We do not find any of the yardsticks fulfilled/satisfied in the present review Application.

5. Review Application is devoid of any merit and is accordingly dismissed. No costs.

(Shekhar Agarwal)
Member (A)

(A.K. Bhardwaj)
Member (J)

September 2, 2015
/sunil/