

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

**RA-318/2015
&
RA-108/2016 in
OA-2765/2012**

Reserved on : 13.05.2016.

Pronounced on : 23.05.2016.

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

RA-318/2015 in OA-2765/2012

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|---|--------|-------------------------|
| 1. The Vice-Chairman,
DDA, Vikas Sadan,
New Delhi. | | |
| 2. The Principal Commissioner (Systems),
DDA, Vikas Sadan,
New Delhi. | | |
| 3. The Commissioner (Personnel),
DDA, Vikas Sadan,
New Delhi. | | |
| | Versus | Review Applicants |
| 1. Anjana Saha,
Deputy Director (Systems) I,
R/o 15-A, Pocket-IV,
Mayur Vihar, Phase-I,
Delhi-110091. | | |
| 2. Sh. V.S. Tomar,
Director (Systems),
DDA, Vikas Sadan,
New Delhi. | | Respondents |

RA-108/2016 in OA-2765/2012

- | | | |
|---|--------|------------------------|
| Sh. V.S. Tomar,
Director (Systems),
DDA, Vikas Sadan,
New Delhi. | | |
| | Versus | Review Applicant |
| 1. The Vice-Chairman,
DDA, Vikas Sadan,
New Delhi. | | |
| 2. The Principal Commissioner (Systems),
DDA, Vikas Sadan, | | |

New Delhi.

3. The Commissioner (Personnel),
DDA, Vikas Sadan,
New Delhi.
4. Anjana Saha,
Deputy Director (Systems)1,
R/o 15-A, Pocket-IV,
Mayur Vihar, Phase-I,
Delhi-110091.

Present : Sh. Arun Birbal with Ms. Sriparna Chatterjee and Sh. S.M. Arif,
counsel for review applicants.
Sh. M.K. Bhardwaj, counsel for respondents.

ORDER

Mr. Shekhar Agarwal, Member (A)

RA-318/2015 in OA-2765/2012

Review application No. 318/2015 in OA-2765/2012 has been filed by OA respondents No. 1 to 3 for review of our order dated 23.11.2015. In particular, the review applicants are seeking review of para-8 of the order, which reads as follows:-

"8. We, however, find merit in the contention of the applicant that on the date of regular promotion on 11.06.2012, the respondent No.4 had not put in prescribed eligibility service of 05 years as Deputy Director and was, therefore, not eligible to be considered for promotion as Director. This is because DoP&T Instructions provide that eligibility of an officer for promotion in a particular vacancy year has to be seen on 1st January of that year. Thus, for vacancy year 2012-2013 the eligibility of the officer was to be seen as on 01.01.2012. Since the DPC in the instant case was held on 07.06.2012, the eligibility of respondent No. 4 for promotion should have been seen as on 01.01.2012. Since the respondent No. 4 admittedly was promoted as Deputy Director only on 03.05.2007, he would not have completed 05 years of regular service as on 01.01.2012. Thus, he was not eligible to be promoted on regular basis by the DPC. From the minutes of DPC made available by the respondents, we notice that DPC was wrongly informed by the office of the respondents that respondent No. 4 was eligible for promotion as per the amended Recruitment Rules. While the respondent No. 4 did have the required technical qualification, he did not have the prescribed length of service for promotion on that date. Hence, he could not have been promoted on regular basis by the DPC."

2. A separate review application No.108/2016 in OA-2765/2012 has also been filed by OA respondent No.4 for review of the same order.

3. During course of arguments, learned counsel Sh. S.M. Arif for the review applicant of RA-108/2016 stated that he was adopting the arguments advanced by other review applicants in OA-2765/2012 and the same may be considered on his behalf. Therefore, both RAs may be disposed of by a common order. None of the counsels had any objection to this. Accordingly, both these RAs are being disposed of by a common order.

4. The main and only ground for review advanced by the review applicants was that on the directions of this Tribunal the review applicants had submitted minutes of the DPC in which promotion of OA respondent No.4 was considered along with certain other necessary documents within a period of three days of the order being reserved. These documents contained minutes of the meeting of the Delhi Development Authority (DDA) held on 26.07.2013 (pages 24 to 26 of review application No. 318/2015). They have drawn our attention to Item No. 87 of 2013 of this meeting to say that prior to passing of this agenda item, DDA was having practice of computing eligible service for promotion as on the date of convening of DPC. It was only after this meeting that DoP&T guidelines regarding computing the eligibility of a person as on 1st January of the year in which DPC was being held was followed. Learned counsel for the review applicants argued that this Tribunal had inadvertently not taken this document into account while delivering the judgment dated 23.11.2015. Consequently, an error apparent on the face of the record has crept into the judgment, which needs to be corrected. Learned counsel also argued that DoP&T guidelines were only in the nature of Executive Instructions and it was not mandatory for the DDA to follow them.

5. The OA applicant has filed reply opposing the review application. In her reply, she has stated that order of this Tribunal has already been challenged before Hon'ble High Court of Delhi in C.W.P. No. 124/2016. As such, this review application was not maintainable since multiple remedies cannot be pursued at the same time. She has also submitted that there was no error in the judgment and this review application was nothing but an abuse of the process of law. Further, she has submitted that no order has been passed against DDA. Hence, there is no reason for them to file this review application.

6. We have considered the aforesaid submissions. In their rejoinder, the review applicants have stated that the CWP No. 124/2016 filed against the order in question was dismissed as withdrawn by Hon'ble High Court of Delhi on 25.01.2016, a copy of which is available at page-73 of the review application. Thus, there is no merit in OA applicant's contention that multiple remedies were being pursued by the review applicants.

7. During the course of arguments, review applicants have also submitted that OA respondent No.4 was technically qualified person to hold the post of Director (Systems) in DDA and quashing of his appointment by this Tribunal had hurt the DDA. In view of this submission, we hold that DDA had justifiable reasons to seek review of our order.

8. As far as merits of the case are concerned, we have perused the document available at page-26 of the review application No. 318/2015. It is true that this document had been submitted by the review applicants after the judgment in the OA was reserved within the time permitted by this Tribunal.

9. On going through para-8 of our judgment, we find that inadvertently we have failed to consider this document. Therefore, an error has crept into our judgment inasmuch as a vital document having bearing in the case has escaped our attention.

10. Thus, on this ground alone, we allow both these R.As and recall the order dated 23.11.2015. The O.A. is restored to its original number.

11. Let the O.A. be listed for hearing on 08.07.2016.

(Shekhar Agarwal)
Member (A)

(V. Ajay Kumar)
Member (J)

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