

**CENTRAL ADMINISTRATIVE TRIBUNAL
CHANDIGARH BENCH**

...

**RA No.060/00058/2018 IN
OA No.060/00438/2017 &
MA No.060/01523/2018 &
MA No.060/01524/2018**

Chandigarh, this the 1st day of November, 2018

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**CORAM: HON'BLE MR. SANJEEV KAUSHIK, MEMBER (J)
HON'BLE MRS. P. GOPINATH, MEMBER (A)**

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1. Union of India through Chairman CBDT, North Block, New Delhi, Pin 110001.
2. Principal CCIT, NWR, Aayakar Bhawan, Sector 17-E, Chandigarh, Pin 160017.
3. Deputy Commissioner of Income Tax (HQ) (Vig.), Aayakar Bhawan, Sector 17-E, Chandigarh, Pin 160017.

**....REVIEW APPLICANTS
VERSUS**

1. Sonam d/o Sh. Ramesh Kumar, aged 24 years, O/o Joint Commissioner of Income Tax, Hisar Range, Hisar, Aayakar Bhawan, Sector 14, Hisar, working as Stenographer Grade-II, R/o H.No.984 Gandhi Nagar Near Adarsh School, Hisar, Pin 125033.
2. Priyanka d/o Sh. Birbal, age 29 years, O/o Joint Commissioner of Income Tax, Kurukshetra Range, Kurukshetra, Sector 17, Kurukshetra, working as Stenographer Grade-II, R/o H.No.396/22, Rajendra Colony, Near Guru Nanak School, Kurukshetra, Haryana, Group-C, Pin Code 136118.
3. Kapil Kumar, Income Tax Inspector, Office of the Pr. Commissioner of Income Tax-3, Aayakar Bhawan, Rishi Nagar, Ludhiana, Punjab-141001.
4. Parvinder Singh, Income Tax Inspector, Office of the Pr. Commissioner of Income Tax (Central), Income Tax Office Jalandhar, Punjab 144001.

....REVIEW RESPONDENTS

(Present: Mr. K.K. Thakur, counsel for the review applicants)

ORDER (Oral)

SANJEEV KAUSHIK, MEMBER (J):-

The present Review Application (RA) has been filed seeking the review of orders dated 07.03.2018 and 29.05.2018 (Annexures RA-1 & RA-2).

2. This matter came up for hearing before this court on 10.10.2018, and following order was passed:-

"Heard.

The present Review Application has been filed by the respondents/review applicant, seeking review of order dated 07.03.2018, whereby the O.A. was disposed of, on consensual basis, after a statement is made by the learned counsel for the respondents that the respondents have already considered the cases of similarly situated persons in terms of various judicial pronouncements, on the issue and would also consider the claim of the applicants in terms of law and rules on the subject by taking into consideration their past service.

Since the matter was disposed with the consent of learned counsel for the parties, on the basis of a statement, made by the learned counsel for the respondents himself, we are not inclined to entertain this RA, filed by the respondents/review applicant. However, learned counsel requests that he may be granted 10 days time to make his further arguments on the point that whether an order passed on consensual basis can be sought to be reviewed.

List on 29.10.2018."

On 29.10.2018, the following order was passed:-

- "1. Learned counsel appearing on behalf of the respondents, as noticed earlier also, fails to point out any error in our consensual order dated 07.03.2018 passed in the main O.A. modified subsequently in R.A. filed by the applicant, disposed of vide order dated 29.05.2018. He submitted that he was instructed to file review application, by the department.
- 2. Though we can dismiss this R.A. at the first instance to have a view of the concerned officer, who has filed the R.A., in which the Advocate appearing on their behalf is not able to assist, we are adjourning the matter.
- 3. Accordingly, the respondents are directed to produce the file where a view has been taken by the respondents to move review application.
- 4. List on 01.11.2018."

3. Today, the review applicants produced a file, where a decision has been taken to seek review of above noted two orders i.e. orders dated 07.03.2018 and 29.05.2018 (Annexures RA-1 & RA-2). We are not inclined to entertain this application, because the OA was disposed of, on the statement made by learned counsel for the respondents that they have already considered the case of the applicants for promotion to the post of Inspector by taking into consideration their past service rendered in earlier Commissionerate, which was the prayer made by the applicants in the OA, and we made it clear that, if they are otherwise found eligible and come within the zone of consideration, they be given promotion, vide order dated 07.03.2018. Subsequent to that, the applicants has filed application for review of order dated 07.03.2018 (Annexure RA-1) for their promotion against vacancies for the year 2017-18, but we dismissed the application, by giving liberty to the applicants to raise a plea, when the respondents deny them promotion from due date.

4. Mr. K.K. Thakur, learned counsel for the respondents submitted that since the suitability of the applicants in the OA is to be tested on rule formation, that fact needed to be clarified, which has not been done. Therefore, there is an impression that this court had already held the applicants eligible, after counting their past service, on the indicated statement, so review applicants were compelled to move an application.

5. Considering the above noted facts, we are not inclined to entertain this petition. There is no material on record or subsequent order that suitability of the applicants in the OA is not subject to rule

formation. Suitability of an employee has always to be considered in terms of rules and law.

6. Therefore, the instant RA is disposed of in the above terms.

7. Connected MAs are also stand disposed of.

(P. GOPINATH)
MEMBER (A)

(SANJEEV KAUSHIK)
MEMBER (J)

Dated: 01.11.2018.

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