

**CENTRAL ADMINISTRATIVE TRIBUNAL
CHENNAI BENCH**

MA/310/00893/2017 & RA/310/00026/2017

in

OA/310/01223/2016

Dated Monday the 4th day of December Two Thousand Seventeen

PRESENT

HON'BLE MR. K. ELANGO, Member (J)

HON'BLE MR. R. RAMANUJAM, Member (A)

Union of India rep by,

1. Secretary, Ministry of Urban Development,
Nirman Bhavan,
New Delhi-110108.

2. The Director,
Directorate of Printing,
Ministry of Urban Development,
Nirman Bhavan,
New Delhi-110108.

3. The Manager,
Govt. of India Press,
Coimbatore-641019.

....Applicants in MA & RA /
Respondents in OA

By Advocate Mr. S. Navaneethakrishnan

Vs

Kumar Gunjan,
D.No. 6/4, Press Colony Post,
Govt. of India Press,
Coimbatore 641019.

....Respondent in MA & RA /
Applicant in OA

By Advocate M/s. P. Ulaganathan

[Order by Hon'ble Mr. R. Ramanujam, Member(A)]

(By Circulation)

This Review Application (RA) has been filed by the OA respondents against the order passed by this Tribunal dt. 19.06.2017 in OA 1223/2016. MA is for condoning a delay of 57 days in filing the RA.

2. This Tribunal had, in the aforesaid order directed the respondents to consider appointing the OA applicant as Accountant with effect from the exact date from which the posts were revived as it was against such revived posts that the applicant had been appointed subsequently on the basis of his performance in the Limited Competitive Examination held in 2014. Such a direction was given in the background of the case wherein it was admitted that 26 vacancies had been notified for promotion to the post of Accountant through the said departmental competitive examination out of which only 4 were filled on the plea that the remaining posts had been deemed to have been abolished in the meantime. Out of the 4 vacancies filled, two persons who had secured lower marks than the OA applicant had been appointed on the ground that they belonged to the ST category, whereas the applicant belonged to the Unreserved (UR) category. As the roster maintained by the respondents required two ST vacancies to be filled, the applicant had no claim for the 3rd and 4th vacancies, it was submitted.

3. As it was admitted that the applicant could not be appointed at the

relevant time due to deemed abolition of posts which were revived subsequently and he had been appointed to the post of Accountant by an order dt. 01.12.2016 against current live vacancies with immediate effect on the basis of his success in the departmental competitive examination held in 2014, in the interest of justice, it was directed that the applicant should be appointed with effect from exact date from which the posts deemed to have been abolished were revived.

4. The OA respondents now seek a review of the order on the ground that there was no revived / live vacancy available as on 10.04.2015 when the two ST candidates who secured lower marks than the applicant had been promoted. The applicant could not, therefore, be promoted with effect from such date. It is submitted that the revival of the post of Accountant which had gone into deemed abolition happened on 17.07.2015 and the post again went into deemed abolition one year thereafter following failure to fill up the post due to proposed modernization / right sizing of the establishment. As there was no revived / live vacancy before 01.12.2016, the date on which the applicant was promoted, the direction of this Tribunal is incapable of being complied with, it is contended. It is also submitted that the seniority of the applicant was intact as per the merit / select list of the examination and the pay benefits were also given from the date of his appointment on his grade and therefore, no serious prejudice was caused to the OA applicant.

5. A careful perusal of the RA reveals a complete failure on the part of the RA applicants to understand the direction given by this Tribunal, much less, appreciate the spirit of the same. Admittedly, there were no current / live vacancies on 10.04.2015 for the applicant to be accommodated when the two ST candidates were promoted. However, as stated in the RA itself, the posts that had gone into deemed abolition were revived on 17.07.2015, at which point of time the applicant ought to have been considered for appointment on a UR vacancy against one of the revived posts. Clearly, this was not done and the revived posts were allowed to go into deemed abolition once again one year thereafter. This happened for no fault of the OA applicant. The OA respondents could not be allowed to hold their own inaction for a period of one year from 17.07.2015 to utilise the revived posts as a ground for defeating the claim of the applicant.

6. Deemed abolition and revival of posts is purely an administrative matter to be taken up with the relevant authorities. It is not in dispute that the respondents had notified 26 posts against which only four vacancies were filled. It was a failure on the part of the respondents not to have moved the competent authority in time to guard against the notified posts going under deemed abolition. If there was absolutely no need for 22 out of the 26 posts even on functional grounds, they could not have been revived on 17.07.2015. Once revived on the ground of functional necessity, the respondents had no option but to consider the successful candidates against

the remaining 22 posts. It was on this reasoning that the OA was disposed of by this Tribunal with a direction to the respondents to consider appointing the OA applicant w.e.f., the exact date from which the posts were revived. We do not see any glaring omission, patent mistake or grave error in the judgment to warrant a review.

7. RA is misconceived and is dismissed accordingly. Consequently, MA filed for condonation of delay in filing this RA stands disposed of.

(R. RAMANUJAM)
Member (A)

(K. ELANGO)
Member(J)

04.12.2017

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