

CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH  
AT HYDERABAD

RA No.30/2016 in OA/01021/2014

Date of CAV : 23.08.2018  
Date of Order : 18-09-2018

Between :

1. P.Ramanjeneyulu S/o P.G.Venkata Ramana,  
Aged about 40 years.
2. K.Srinivasa Rao S/o Late Mahankali,  
Aged about 43 years
3. Ganesh Yadav S/o Chandrika Yadav  
Aged about 44 years
4. K.Ashok Kumar S/o Kesava Pillai,  
Aged about 44 years
5. G.Samba Siva Rao S/o G.Veeraiah,  
Aged about 44 yers
6. S.Srinivas Rao S.Ganga Raju  
Aged about 38 years
7. G.Dharma Rao S/o G.Appala Swamy  
Aged about 42 years
8. Chandra Sekhar S/o S.Shankarappa,  
Aged about 42 years
- 9.Bhanwar Lal S/o Kana Ram  
Aged about 43 years
10. S.V.Ramana S/o K.Srinivasa Rao,  
Aged about 43 years
- 11.M.K.Thakur S/o Late Ramdahin Thakur,  
Aged about 42 years
- 12.B.V.R.Murty S/o Late B.Lakshmana  
Aged about 44 years
- 13.C.Shanmugan S/o K.Chinnabba,  
Aged about 43 years
- 14.E.Bhaskar Rao S/o Ldate E.Yogeshwar Rao,  
Aged about 39 years

15. Saji Kumar S, S/o R. Sivadasan Pillai  
Aged about 45 years

16. Devappa Pawar S/o Dharmanna Pawar,  
Aged about 44 years

17. Rajender Singh S/o Dalab Singh,  
Aged about 43 years

18. K. Nagamalleswar Rao S/o Late Chandraiah,  
Aged about 44 years

19. Shankar Prasad Kar S/o Kusadhar Kar,  
Aged about 43 years

20. Ramchandrar S/o Tara Chand,  
Aged about 42 years

21. T. Trinadh Rao S/o Late T. Rajappadu,  
Aged about 39 years

....Applicant

AND

1. Union of India, Rep by  
The Secretary to the Government,  
Ministry of Home Affairs,  
(Police Division) North Block,  
NEW DELHI-01.
2. Sardar Vallabhbhai Patel National  
Police Academy Rep by its Director,  
Government of India, Ministry of Home Affairs,  
HYDERABAD – 500 052.

...Respondents

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Counsel for the Applicant : Mr. Siva

Counsel for the Respondents : Mr. V. Vinod Kumar, Sr. CGSC

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CORAM :

THE HON'BLE MR.B.V.SUDHAKAR, ADMINISTRATIVE MEMBER

THE HON'BLE MR.SWARUP KUMAR MISHRA, JUDICIAL MEMBER

## ORDER

(per Hon'ble Mr.Swarup Kumar Mishra, Judicial Member)

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This review application has been filed by the original applicants in the OA to review the order dated 03.06.2016 of this Tribunal in OA No. 1021/2014.

2. On going through the original order dated 03.06.2016, passed by this Tribunal, it is crystal clear that this Tribunal after going through all the aspects of the matter had categorically held as under :

“8. We have given our anxious consideration to the contentions advanced by the learned counsel appearing for the parties. There is no dispute that two pay scales operate in 2<sup>nd</sup> respondent academy in the cadre of Constable. There is no dispute that the existing cadre strength of Constable is 98 and 62 posts were newly created posts. The incumbents of existing posts are drawing pay in PB-1 Rs.5,200-20,000 with grade pay of Rs.1,800/-. The incumbents of the newly created posts are drawing pay in PB-1 with grade pay of Rs.2,000/-. In the first blush we gain an impression that operation of two pay scales for the same cadre appears to be in violation of equity clause. However, on close scrutiny of the material placed on record we do not detain ourselves long to dispel the impression. The exiting posts are occupied by regular employees of the 2<sup>nd</sup> respondent academy. With regard to newly created posts, persons from CAPFs are taken on deputation. The grade pay in CAPFs for the post of Constable and the grade pay of the newly created posts are made equal so as to draw the competent persons to impart necessary training to the high rank police offices in the 2<sup>nd</sup> respondent academy. Had the pay of the newly created posts been not placed on par with the pay of the personnel in CAPFs, perhaps no personnel from APFs would come to 2<sup>nd</sup> respondent academy on deputation. The apparent reason for allowing higher grade pay to the newly created posts is to draw meritorious persons from CAPFs. It is a matter of record that the applicants while being absorbed in 2<sup>nd</sup> respondent academy has given undertaking that they would accept the pay scale attached to the post of Constable in the 2<sup>nd</sup> respondent academy. There is a rationale in placing the personnel in the newly created posts on higher pay band and grade pay and it is linked with the object of

drawing competent personnel on deputation to the 2<sup>nd</sup> respondent academy. Therefore, the principle of equity in the given fact and circumstances cannot be made applicable.

9. Accordingly, we find that the applicants failed to make out any valid ground for grant of grade pay on par with newly created posts in the cadre of Constable.

10. Accordingly OA fails and dismissed with no order as to costs.”

3. The review applicants contends that in response to the query raised by the Bench at the time of hearing the OA, material was placed to substantiate the reliefs sought for. Orders of direct recruitment to the cadre of Constables was produced to buttress the contention that the newly created posts that carry higher pay scale are not being filled up exclusively by deputation. This aspect has not even been recorded and the obvious reason was that it would be difficult to sustain the order of dismissal.

4. The Review Applicants also contend that the order under review that *the existing posts are occupied by regular employees of the 2<sup>nd</sup> Respondent academy, With regard to newly created posts, persons from CAPFs are taken on deputation, the grade pay in CAPFs for the post of Constable and the grade pay of the newly created posts are equal so as to draw the competent persons to impart training to the high rank police officers in the 2<sup>nd</sup> Respondent academy* are not supported by any material on record. In fact there are 98 existing posts and 45 newly created Constable posts in the Academy. Of these 98 existing posts, 21 permanent employees are manning. Out of the 45 newly created posts in PB-1 with GP 2000/- 7 posts are filled by direct recruitment from open market and remaining are filled

by deputationists drawn from CAPFS. Hence, the contention that these 45 newly created posts are exclusively being filled by deputationists only from CAPFs and they are meant to attract meritorious and competent personnel from CAPFs is factually in-correct and not sustainable. Thus, it is a finding without any factual foundation and in fact contrary to the facts on ground. This formed the basis for dismissing the OA and therefore unsustainable.

5. The scope of review under Order 47 Rule 1 of the C.P.C read with Section 22(3) (f) of the A.T. Act is very limited. Unless there is an apparent error on record, it cannot be rectified under the umbrella of a Review Application. An error which is not self evident and it can be discovered by a long process of reasoning cannot be treated apparent on the face of the record justifying exercise of power of review [ State of West Bengal & Ors Vs. Kamal Sengupta & Ors (2008) 2 SCC (L&S) 735 and Parsion Devi Vs. Sumitri Devi 1997 (8) SCC 715 (relied on)].

6. It may not be out of place to mention here that even an erroneous decision by itself does not warrant a review as has been observed by the Hon'ble Apex Court in case of Akhilesh Yadav Vs. Vishwanath Chaturvedi [ 2013 (1) SCC (L&S) 371].

7. In the case of Subhash Vs. State of Maharashtra [ AIR 2002 SC 2537 ], their Lordships of the Hon'ble Apex Court have taken exception to the conduct of the Tribunal in examining the matter as if it was an Original Applicant before it as it is not the scope of review. Accordingly to their

Lordships, the Tribunal could have interfered in the matter if the error pointed out is plain and apparent.

8. Before parting with this order, it may be worthwhile to reiterate that a Review Bench, cannot exercise the privilege which is available to a higher judicial forum. Since there is no other error on the face of record justifying correction and re-appreciation, the RA is dismissed. No order as to costs.

(SWARUP KUMAR MISHRA)  
JUDICIAL MEMBER

(B.V.SUDHAKAR)  
ADMINISTRATIVE MEMBER

Dated : 18<sup>th</sup> September, 2018.

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