

CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH
AT HYDERABAD

RA/021/00024/2016 in OA/021/01078/2014

Date of CAV : 25-10-2018

Date of Order : 31-10-2018

Between :

1. Palani Kumar S/o K.Muthalagu,
Aged about 38 years
2. K.Venkatesh S/o Kempanna,
Aged about 44 years
3. D.Anil Kumar S/o Divakaran,
Aged about 46 years
4. M.P.Joy S/o Paullo,
Aged about 47 years
5. Mahohar Lal S/o Mier Singh,
Aged about 48 years
6. K.Sudhakara Raju S/o Rarsha Raju
Aged about 42 years
7. M.Raju S/o M.Nageshwar,
Aged about 39 years
8. G.Abbaiyah S/o G.Jangaiah,
Aged about 39 years
9. Y.R.Nayakulu S/o Y.Rangaiah,
Aged about 50 years
10. P.V.Prakashan S/o P.Gopalan Nambiar,
Aged about 45 years
11. Hari Om S/o Suwa Lal,
Aged about 39 years
12. Amrit Singh S/o Baldau,
Aged about 46 years
13. M. Srinu Prakash S/o M.Maheshwar,
Aged about 45 years
14. Ranga Swamaiah S/o Lakshmaiah,
Aged about 44 years

15. P.Dileep Kumar S/o P.K.Padmanabhan,
Aged about 45 years
16. J.Rama Rao S/o J.VenkataRatnam,
Aged about 49 years
17. G.R.Reddy S/o G.Linga Reddy,
Aged about years
18. D.M.Reddy S/o D.China Thimma Reddy,
Aged about 39 years
19. K.TamilMaran S/o G.Kannan,
Aged about 45 years
20. B.M.Mallesha S/o Mallaiah,
Aged about 47 years
21. Shaik Abdul Samad S/o Late Abdul Azeez,
Aged about 48 years
22. R. Narayana Reddy S/o R. Gopal Reddy,
Aged about 46 years
23. Chandrakanta S/o Bhimashiv
Aged about 49 years
24. Om Prakash S/o Ghore Lal
Aged about 48 years
25. S. Daya Shankar S/o S. Muthyal Reddy,
Aged about 43 years
26. T. Venkatesham S/o Changalarayan,
Aged about 48 years
27. Balappa S/o Kalukutta,
Aged about 47 years
28. G.I. Naidu S/o G. Venkataswami Naidu,
Aged about 42 years
29. M. Rami Reddy S/o M. Venkata Reddy,
Aged about 45 years
30. Iqbal Mohammed S/o Late Farman Khan
Aged about 49 years
31. A.Ram Reddy S/o Chandra Reddy

Aged about 43 years

32. M.A. Moheeth S/o Late M.A. Hafeez,
Aged about 39 years

33. Harish Kumar S/o Late Shiv Charan Sharma,
Aged about 47 years

34. S.D. Hari Nath S/o S. Dayanand
Aged about 49 years

35. V. Jagannadham S/o Venu Naidu,
Aged about 50 years

36. CH. Bhaskar Reddy S/o Rosi Reddy
Aged about 49 years

37. N. Srinivasulu S/o Yogi Naidu,
Aged about 46 years

38. H. Venkata Chary S/o Late H. Paiah,
Aged about 49 years

39. M. Ramana Reddy S/o M.K. Vengal Reddy,
Aged about 47 years

40. Mohd. Sarwar S/o Mohd Shabbir,
Aged about 40 years

41. P. Dhanunjaya Rao S/o Late Gopala Swamy,
Aged about 43 years

42. Bom Bahadur S/o Prem Bahadur,
Aged about 48 years

43. Dastagir S/o Sarpodin,
Aged about 51 years

44. Peer Mohammed S/o Natthu Bakas,
Aged about 43 years

(All the above Applicants are working as Head Constables)
Sardar Vallabhbhai Patel National Police Academy, Sivarampalli,
Hyderabad – 500 052.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

Counsel for the Applicant: Mr. Siva

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

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)

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.1078/2014.

2. The original order dated 03.06.2016, passed by this Tribunal shows 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 2nd respondent academy in the cadre of Head Constable. The incumbents of 59 posts are drawing pay in PB-1 Rs.5,200-20,000 with grade pay of Rs.1,900/-. The incumbents of the newly created posts are drawing pay in PB-1 Rs.5,200-20,200 with grade pay of Rs.2,400/-. 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 existing posts are occupied by regular employees of the 2nd respondent academy. With regard to newly created posts, persons from CAPFs are taken on deputation. The grade pay in CAPFs for the post Sub Inspector 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 officers in the 2nd respondent academy. Had the pay of the newly created posts been not place on par with the pay of the personnel in CAPFs, perhaps no personnel from CAPFs would come to 2nd respondent academy on deputation. The apparent reason or allowing higher grade pay to the newly created posts is to draw meritorious persons from CAPFs. It is a matter of record that the applicant while being absorbed in 2nd respondent academy has given undertaking that he would accept the pay scale attached to the post of Sub Inspector in the 2nd 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 2nd respondent academy. Therefore, the principle of equity in the given facts and circumstances cannot be made applicable.

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

3. The review applicant 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 in question 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 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)].

7. 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].

8. 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.

9. 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 error on the face of record justifying correction and re-appreciation, the RA is dismissed. No order as to costs.

Dated : 31st October, 2018.

