

(V)

Central Administrative Tribunal
Principal Bench

RA No. 17/2010
OA No.1909/2003

New Delhi this the 15th day of February, 2011

Hon'ble Mr. Justice V.K. Bali, Chairman
Hon'ble Dr. Veena Chhotray, Member (A)

1. Dinesh Dutt Sharma,
S/o Sh. Ram Kishan Sharma,
R/o 38, Sharda App.,
W.Enclave, Pitampura,
Delhi-110034
 2. Umed Singh Grewal,
S/o Shri Yad Ram Grewal,
R/o DA-326, Shalimar Bagh,
Delhi-88
- Applicants

(By Advocate: Shri Apurb Lal)

-V E R S U S-

1. Govt. of NCT of Delhi,
Through its Chief Secretary,
Players Building, I.P. Estate,
Delhi-110002
 2. Director,
Directorate of Training & Technical Education,
Maya Muni Ram Marg, Pitampura, New Delhi
 3. Deputy Secretary,
Directorate of Training & Technical Education,
Maya Muni Ram Marg, Pitampura, New Delhi
 4. Joint Director,
Directorate of Training & Technical Education,
Maya Muni Ram Marg, Pitampura, New Delhi
- Respondents

(By Advocate: Shri Rishi Prakash)



O R D E R

Dr. Veena Chhotray:

RA No. 17/10 has been filed by the applicants in OA No. 1909/2003 in terms of liberty granted by the Delhi High Court vide its judgment dated 2.12.2009 in the WP (C) 3920/07. The RA seeks the following reliefs:-

- “(I) to review the order dt. 11.7.2006 passed by the Hon’ble Tribunal in OA No. 1909/2003 to the extent that the applicants are drawing more salary than the lecturer and no financial loss is occurred to them and as much as the applicants have not been granted upgradation to the post of Lecturer w.e.f. 1988 and the consequential benefits.*
- (II) The respondents may be directed to promote the Applicants as having been upgraded to the posts of Lecturers w.e.f. 1988 since 12.12.88 at least and hence grant them the Senior Grade and Selection Scale as per letter dated 19.9.93.*
- (III) Any other relief which this Hon’ble Court may deem fit and proper in the facts and circumstances of the case may also be granted in favour of the Applicant.”*

The present order is being passed after considering the averments in the RA, the counter affidavit filed by the respondents and after hearing the counsels on both the sides.

2. While deciding the OA, vide its order dated 11.7.2006, a coordinate Bench of this Tribunal had arrived at the following conclusive findings:-

“6.From the fact situation, it emerged that the applicants were discharging the duties of the Lecturers and teaching and taking up classes in the Laboratory. As



per the Madan Committee's Report, if any person was discharging the duties of the post of Lecturer having requisite qualifications, it was open to the respondents to consider to designate him as a Lecturer. Since the applicants' services were utilized for teaching the students, though in the Laboratory, and that service continued till their retirement, we do not have any difficulty in designating them as Lecturers. Learned counsel for respondents submitted that applicants if designated as Lecturers, there is an apprehension that the applicants may claim further remuneration. We find this apprehension to be baseless in this case as the applicants are drawing more salary than the Lecturer. No financial loss can occur to them...."

The OA had been disposed by directing the respondents to designate the applicants as Lecturers on the date of their retirement. As the concluding observations, the learned Bench had also clarified that no financial and pecuniary benefit will accrue to the applicants.

3. The aforesaid order had been challenged by the applicants through the WP (C) No. 3920/2007 with the grievance that the Tribunal had denied them the designation of Lecturers from 1988 and instead had ordered for such a designation from the date of their retirement. The premise underlying the above decision of the Tribunal that such re-designations from any earlier date would have no financial implications, since the applicants had been drawing more salary as Foreman than they would as Lecturers, had also been challenged by the applicants, as 'an error apparent on the face of record'.

Being seized with this submission, the Hon'ble High Court had observed that if the petitioners were right in their aforesaid submissions, it may be a fit case for review of its order by the



Tribunal. In its final directions, the petitioners were given liberty to seek review of the impugned order, within a stipulated time limit of 30 days. Further, it was also made clear that such a review was to be in accordance with law. As for the respondents, it was observed by the Hon'ble High Court that they would be entitled to contest the Review Petition on merits.

The present RA has been filed in the aforesaid background.

4. In **State of West Bengal & Ors. Vs. Kamelsen Gupta and Anr.**, (2008) 9 SCALE 504, while elaborating the scope of powers of review vested in the Administrative Tribunal, the following dicta was observed by the Hon'ble Apex Court:-

A Tribunal established under the Act is entitled to review its order/decision only if either of the grounds enumerated in Order 47 Rule 1 of the CPC are available. This would necessarily mean that a Tribunal can review its order/decision on the discovery of new or important matter or evidence which the applicant could not produce at the time of initial decision despite exercise of due diligence, or the same was not within his knowledge or it is shown that the order sought to be reviewed suffers from some mistake or error apparent on the face of record or there exists some other reason which in the opinion of the Tribunal is sufficient for reviewing the earlier order/decision.”

(Emphasis Supplied)

5 We have carefully perused the original order of the Tribunal in this case. Besides, we have also duly considered the respective submissions-both written as well as oral-by the applicants in the RA as well as the respondents. We note the conclusive findings of the Tribunal in its original order: (i) the applicants discharging the duties



of Lecturers since 1988 (ii) in view of the Madan Committee Recommendations, the option opened to the respondents to consider designating the applicants as Lecturers (iii) the exercise not having any financial repercussions on the respondents.

5.1 Whereas the learned counsel for the applicants would press the case for being granted the re-designations as Lecturers right from 1988, the date since when they had acknowledgely being discharging such duties; the learned counsel for the respondents would instead draw our attention to the fact that the applicants had been promoted as Foreman Instructors w.e.f. 10.3.1993 and 7.4.1993 respectively, after the issue of notification with regard to the Recruitment Rules for the said posts. Further, it would be emphasized by the learned counsel that the posts of Foreman Instructor had carried the pay scale equal to that of the Lecturers.

6. Considering the limited scope under the review jurisdiction, as laid down by the Hon'ble Apex Court, we are of the view that rearguing the case right from 1988 when the applicants had a different pay scale would not be in consonance with the basic premises of the Tribunal about the respondents not being put to any extra financial burden on account of the re-designations. Considering such a course would amount to re-agitation of the issues, and not within the ambit of Review Application, as is the settled law on the subject.

However, since, admittedly, the applicants had been enjoying the same pay scales as that given to the Lecturers, from the date of

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their promotions in the year 1993; we find the present case a fit one for granting the benefit of re-designation from such dates instead of from the date of retirement, as per the existing order.

7. To conclude, allowing the RA partly, we hereby direct the following modifications in the earlier order dated 11.7.2006 by the coordinate Bench deciding the OA:

The existing directions “in that view of the matter, we hereby direct the respondents to re-designate the applicants as Lecturers on the date of their retirement” to be modified by “in that view of the matter, we hereby direct the respondents to re-designate the applicants as Lecturers w.e.f. the date of their promotion to the posts of Foreman Instructors i.e. 10.3.1993 and 7.4.1993 respectively”.


(Dr. Veena Chhotray)
Member (A)


(V.K. Bali)
Chairman

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