

**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH**

RA No.141/2004
in
OA No.1477/2003

(2)

New Delhi this the 18th day of March, 2005.

Hon'ble Mr. V.K. Majotra, Vice-Chairman (Admnv)
Hon'ble Mr. Shanker Raju, Member (Judl.)

Narender Kumar Singh,
Assistant Director of Textile,
Udyog Bhawan,
New Delhi.

-Review Applicant

(By Advocate Shri Sohan Pal Singh)

-Versus-

1. Union of India through
Secretary, Ministry of Textile,
Udyog Bhawan, New Delhi.
2. Textile Commissioner,
Ministry of Textile,
GOI C.G.O. Complex-48,
New Marine Lane Mumbai-20.

-Respondents

(By Advocate Shri B.S. Jain)

ORDER

Mr. Shanker Raju, Hon'ble Member (J):

Review applicant through this RA has assailed an order passed by the Tribunal in OA-1477/2003 dated 29.3.2004, dismissing the OA.

2. Briefly stated, applicant who was appointed as an Assistant Director in UPSC was initially on a probation of two years which was extended on two occasions, firstly on 27.2.1999 and then again on 27.2.2000. A departmental enquiry was ordered under Rule 14 of the CCS (CCA) Rules, 1965, which culminated into a penalty of removal against applicant vide order dated 20.2.2001. On appeal taking a lenient view by an order dated 19.5.2003 the appellate authority re-instated applicant but continued him on probation. The intervening period from

20.2.2001 till re-instatement has been treated as dies non, without any pay and allowances. Applicant had joined the service on 3.2.2005.

3. In the RA, learned counsel for review applicant states that once the maximum period of probation is two years he is deemed to be confirmed after double the normal period of probation, i.e., after four years. As such the status of applicant on re-instatement cannot be of a probationer. In the above backdrop it is stated that this aspect of the matter of deemed confirmation despite citing the decision of the Apex Court has not been considered by the Tribunal. As such there is an error apparent on the face of record and this RA is to be allowed.

4. On the other hand, respondents' counsel vehemently opposed the contentions and stated that as per the decision of the Apex Court in **Ajit Kumar Rath v. State of Orissa**, 2000 SCC (L&S) 192 applicant is not allowed to re-agitate the matter and RA is not maintainable under Section 22 (3)(f) of the Administrative Tribunals Act, 1985.

5. We have carefully considered the rival contentions of the parties and perused the material on record.

6. In the light of the decision of the Apex Court in **A. Mondal v. State of Bihar**, 2003 (2) SCSLJ 25 a review is not permissible on the ground that the grounds argued were not considered. Moreover, the Apex Court in **Union of India v. Tarit Ranjan Das**, 2004 SCC (L&S) 160 observed as under:

“13. The Tribunal passed the impugned order by reviewing the earlier order. A bare reading of the two orders shows that the order in review application was in complete variation and disregard of the earlier order and the strong as well as sound reasons contained therein whereby the original application was rejected. The scope for review is rather limited and it is not permissible for the forum hearing the review application to act as an appellate authority in respect of the original order by a

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fresh order and rehearing of the matter to facilitate a change of opinion on merits. The Tribunal seems to have transgressed its jurisdiction in dealing with the review petition as if it was hearing an original application. This aspect has also not been noticed by the High Court."

7. In **Subhash v. State of Maharashtra**, 2002 (1) SCSLJ 26 the Apex Court has ruled that review cannot be resorted to for re-examination of the matter. Applicant's plea was incorporated but not considered would not be considered as an error apparent on the face of record. There may be an erroneous view for which an appropriate remedy is available under law.

8. In the result, finding no scope for review under Section 22 (3)(f) of the Administrative Tribunals Act, 1985, the present RA is dismissed. No costs.

S. Raju
(Shanker Raju)
Member(J)

V.K. Majotra
(V.K. Majotra)
Vice-chairman(A)
18.3.05

'San.'