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**Central Administrative Tribunal
Principal Bench, New Delhi**

R.A.No.199 of 2005 in O.A. No. 1570 of 2003

Wednesday, this the 7th day of June 2006

**Hon'ble Shri Shanker Raju, Member (J)
Hon'ble Smt. Chitra Chopra, Member (A)**

1. Ms. Pooja Verma
83-A Street No.11
East Azad Nagar
Delhi-51
2. Ms. Ritu
WZ-384, Tihar Village
Near Ashok Nagar, Near Masjid
New Delhi-18
3. Shri Hement Negi
1813 Laxmi Bai Nagar
New Delhi-23
4. Shri Ravinder Singh
2/361, Subhash Nagar
New Delhi-27

..Applicants

(By Advocate: Shri V.S.R.Krishna)

Versus

1. Union of India through
Central Vigilance Commissioner
Govt. of India, Satarkata Bhawan,
INA, New Delhi-23
2. The Deputy Secretary (Adm.)
Central Vigilance Commission
Govt. of India, Satarkata Bhawan, INA
New Delhi-23

..Respondents

(By Advocate: Shri R.V. Sinha)

ORDER (ORAL)

Shri Shanker Raju, Member (J):

Heard the learned counsel for the parties in RA-199/2005, which has been filed by the original respondents against the Tribunal's order dated 24.7.2003 whereby, though rejecting the request of the applicants for regularization, a direction had been issued by the

Tribunal in favour of the applicants, who had been working on ad hoc basis, to consider them till regularly SSC candidates join duty. Accordingly, the interim order dated 20.6.2003 was made absolute.

2. Learned counsel for original respondents earlier filed one miscellaneous application, being MA-601/2005, for modification in the order dated 24.7.2003, which was withdrawn with liberty to assail remedy by way of review.

3. Learned counsel would contend that as per the recruitment rules apart from mode of selection through SSC, alternate mode is through deputation as well in the wake that the SSC candidates are not joining. The official respondents have attempted to fill up the post on deputation, which is regular mode and the applicants, who are only ad hoc employees, have no right to continue in the wake of latest decision of the Constitution Bench in **Secretary, State of Karnataka & others v. Uma Devi & others**, 2006 (4) SCALE 197.

4. Learned counsel further contended that though there may not be any error apparent on the face of the record but when hardship is faced by the respondents, such an order, in the interest of justice, can be reviewed, which has created an administrative chaotic situation.

5. On the other hand, learned counsel for original applicants Shri V.S.R. Krishna, contended that without any error apparent on the face of record and discovery of new material, which even after due diligence was not available with the parties, review cannot be maintainable, as an error in law is not a ground to review. It can be rectified at an appellate stage. The order of the Tribunal is a conscious



order and reviewing the said order, we cannot sit as an appellate authority over the finding recorded, which has attained finality and not challenged in the writ petition before the High Court.

6. Learned counsel contended that as per the appointment letter of the applicants, they were appointed on ad hoc basis for a period of three years and on three months basis and as a stop-gap arrangement. In this view of the matter, it is stated that as there is no infirmity in the order passed by the Tribunal, the RA does not lie and is liable to be dismissed.

7. We have carefully considered the rival contentions of the parties. It is trite that the scope of review lies in a very narrow compass. As per Section 23 (3) (f) of Administrative Tribunal Act, 1985, it is provided that once there is an error apparent on the face of record and the error would be as such, which needs no long drawn process to unveil it and also discovery of new material, which even after due diligence was not available with the parties are the two grounds on which the review jurisdiction can be exercised by the Tribunal. It is also trite that once a finality is reached in order passed by the Tribunal, the Bench becomes *functus officio* to modify or to review in any manner the directions issued, which would be an exercise of sitting as an appellate authority over the decision of the Tribunal.

8. Although we are of the considered view that in the matter of dismissal of an original application, an observation, which has an effect of creating right in favour of the parties is not legal, as has been held by the Apex Court in **Government (NCT of Delhi) & another v. Nitika Garg & another**, 2001 (10) SCC 160. However, if there is an

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erroneous decision in law, the remedy lies elsewhere, which is available with the respondents.

9. The ground taken now that the applicants being on ad hoc basis having regard to the decision in **Uma Devi's case** (supra), have no indefeasible right to continue indefinitely and once there is a situation that SSC candidates do not join, it requires modification, so that the administrative exigencies may not suffer and the other mode of appointment be resorted to.

10. In our considered view, once there is a conscious decision of the Tribunal as to continuance in the context of the appointment letter of the applicants on ad hoc basis till regularly selected candidates join, it cannot be done away or modified or interfered with in any manner by inserting a modification to the effect that their continuance would be till regularly selected candidates from other sources may join would amount to sitting over the decision of the Tribunal, to which we had become *functus officio*. The remedy of the respondents lies elsewhere.

11. As the RA does not fall within the scope and ambit of review, RA is dismissed. No costs.

Chitra Chopra
(Chitra Chopra)
Member (A)

S. Raju
(Shanker Raju)
Member (J)

/sunil/