

CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH, CUTTACK

R.A.No.260/24/2019 & No.260/17/2019
(Arising out of O.A.No. 260/585/ 2017 &
O.A.No. 260/586/2017 – disposed of vide common order dated 27.03.2019)

Date of Reserve: 21.11.2019
Date of Order:

CORAM:
HON'BLE MR.GOKUL CHANDRA PATI, MEMBER(A)
HON'BLE MR.SWARUP KUMAR MISHRA, MEMBER(J)

1. The Secretary to Govt. Of India cum- Director General (Posts), Ministry of Communications & IT, Dept. Of Posts, Dak Bhawan, Sansad Marg, New Delhi-110 001.
2. Chief Postmaster General, Odisha Circle, P.M.G.Square, Bhubaneswar, Dist-Khurda-751 001.
3. Senior Suptd. Of Post Offices, Puri Division, Puri-752 001.

...Applicants

By the Advocate(s)-Mr.A.C.Deo (R.A.No.24/2019)
Mr.M.R.Mohanty(R.A.No.17/2019)

-VERSUS-

IN O.A.NO.260/24/19

Sri Matia Pradhan, aged about 36 years, S/o. Late Kastia Pradhan, permanent resident of Vill/PO-Purusottam Prasad, PS-Fatehgarh, Dist-Nayagarh and presently working as GDSPkr., Khandaparagarh S.O.

IN O.A. NO.260/17/2019

Sri Bipin Bihari Swain, aged about 36 years, S/o. Late Bholeswar Swain, permanent resident of Vill/PO-Khairapalli, PS-Rajaranapur, Dist-Nayagarh and presently working as GDSBPM, Kairapalli B.O..

...Respondents

By the Advocate(s)-M/s.S.K.Ojha
S.K.Nayak

ORDER
PER SWARUP KUMAR MISHRA, MEMBER(J):

By dint of the above mentioned Review Applications, common order dated 27.03.2019 passed by this Tribunal in O.A.Nos.585 & 586 of 2017 is

sought to be reviewed. This Tribunal vide common order dated 27.03.2019 had disposed of both the above mentioned OAs in the following terms:

- "15. We have heard the learned counsels for the respective parties and perused the records. We have also gone through the written notes of submissions as well as the citations filed by both the sides. We have also gone through the impugned communications dated 03.04.2017 and dated 30.05.2017. We find therefrom that Respondent No.2 has not considered their grievance within the four corners of rules as laid down in Directorate Instructions dated 02.08.2010 and by a stroke of pen has rejected the requests of the applicants for re-evaluation. This in our considered view, is unreasonable and irrational. As quoted above, there are various guidelines issued by the Directorate for the purpose of re-evaluation and as it appears, none of the guidelines form the basis of such rejection. We are conscious that the applicants herein have assailed the Key to Question No.20 (Odiya Version) and the Key to Question No.77 (Odiya Language) on the ground that the answers set therein are wrong. On the other hand, it is the case of the respondents that the the answer to Question No.20 (in English Language) as per Key is option (a). So far as the same Question No.20 on being translated into Odiya, the answer is option (a) as per Key and the applicants having ticked option (b) no mark was awarded against that. Similarly, as per Key option to Question No.77 (Odiya Language) is (b) whereas the applicants have ticked (a) and as such no mark was awarded. Be that as it may, in either of the questions, the applicants have answered on their own wisdom presuming the same to be the right answers. However, with reference to Key, those answers turned to be negative. Having applied their mind and consequently exercised the options in answering the questions, applicants are estopped to assail that the Key Answers to Question No.20 (Odiya Version) was incorrect, apart from pointing out that none of the answers in the Key to Question No.77(Odiya Language) was close to that particular question. However, as mentioned above, the impugned rejection letters are bald and sketchy, without taking into consideration the guidelines issued by the Directorate in its letter dated 02.08.2010. In this connection, we would like to note that the respondents in their counter have pointed out that the result of the LDCE so far as Puri Division is concerned was declared on 03.11.2016 and four GDS officials who had ranked higher in the merit list

securing more marks were selected against four vacancies of Postman belonging to UR category. Respondents have not brought to our notice whether the four GDS officials who have been declared successful and qualified in the LDCE under Puri Division had ticked the same options as that of the applicants herein in so far as Question No.20 (Odiya Version) and Question No.77(Odiya Language) are concerned and if so, whether they had been awarded marks thereon. In the absence of any such averments or the corroborative documents submitted by the respondents, this Tribunal is of the opinion that to meet the ends of justice, the Chief Post Master General, Odisha Circle (Respondent No.2) shall examine the answer sheets of the applicants herein vis-a-vis the answer sheets of four selected candidates in order to come to a finding that there has been no discrimination while awarding marks to the applicants and the four selected candidates against the Question No.20(Odiya Version) and Question No.77(Odiya Language) and pass an appropriate orders within a period of forty-five days from the date of receipt of this order. In the circumstances, the impugned communications dated 03.04.2017 and dated 30.05.2017 in both the OAs are quashed and set aside”.

2. The basic ground urged for review of the common order is that this Tribunal, without discussing Rule-15 of the Appendix-37 of P&T Manual, Vol-IV, which lays down that revaluation of answer scripts is not permissible in any case or under any circumstances, has passed the above order. Besides, the review-applicants have pointed out that Hon’ble Supreme Court in H.P. Public Service Commission vs. Mukesh Thakur [(2010) 6 SCC 759] has laid down the law in Paragraph-20, 24 & 27 of the judgment as follows:

- “20. It was not permissible for the High Court to examine the Question Papers and Answer Sheets itself.”
- 24. The issue of revaluation of answer book is no more res integra.
- 27. Thus the law on the subject emerges to the effect that in absence of any provision under the statute or statutory Rule/Regulations the court should not generally direct Revaluation”.

3. Applicants have also relied on the order dated 17.07.2012 passed by the CAT, Principal Bench in O.A.No.3266/2011 to fortify their standpoint. Based on the above, it is their contentions that had the decision of Hon'ble Supreme Court as well as the decision of CAT, Principal Bench (supra) been taken into account, this Tribunal would have arrived at a different conclusion than what has been arrived at vide common order, which is sought to be reviewed.

4. We have heard the learned counsels for the respective parties and perused the records. The entire gamut of the review applications is based on the direction stated to have been issued by this Tribunal for revaluation of the Answer Scripts of the Respondents, who were the applicants in O.A.No.585 & 586 of 2017. As already quoted above, this Tribunal having regard to the facts and circumstances of the OAs, came to a conclusion that the Chief Post Master General, Odisha Circle (Respondent No.2) should examine the answer sheets of the respondents herein vis-a-vis the four selected candidates in order to come to a finding that there has been no discrimination while awarding marks to the applicants in the OAs and the four selected candidates against the Question No.20(Odiya Version) and Question No.77(Odiya Language) and pass an appropriate orders within a period of forty-five days from the date of receipt of this order. Viewed from this angle, the plea of the review - applicants that this Tribunal while disposing of the above two OAs vide common order dated 27.03.2019 directed revaluation of the Answer Sheets of the respondents herein is based on conjecture and surmises. We make it clear that, this Tribunal has neither directed revaluation of the Answer Sheets nor examine the question papers and answer sheets. In the facts and circumstances, in order to obviate discrimination of any, this Tribunal left the

matter open for the CPMG, Odisha Circle to examine and come to a conclusion that there has been no discrimination between the applicants in both the OAs and the four selected candidates while awarding marks against the Question No.20(Odiya Version) and Question No.77(Odiya Language) and accordingly, pass appropriate orders. By virtue of such direction, this Tribunal has acted within the scope and extend of the judgment of the Hon'ble Supreme Court, as relied upon by the Review Applicants and as such, there is no error apparent on the face of the record review our order dated 27.03.2019.

5. In a catena of judgments, the Hon'ble Apex Court has held that the scope of review is very limited. The merits of the case cannot be reopened in a review application and it cannot be re-adjudicated.

6. Similarly, it has been held by the Hon'ble Apex Court in Chandra Kanta and another Vs. Sheikh Habib [AIR 1975 SC 1500] that : –

“A review of a judgment is a serious step and reluctant resort to it is proper only where a glaring omission or patent mistake or like grave error has crept in earlier by judicial fallibility. A mere repetition through different counsel of old and overruled arguments, a second trip over ineffectually covered ground or minor mistakes of inconsequential import are obvious insufficient.”

7. Further in *Meera Bhanja Vs. Smt. Nirmala Kumari Choudhury* [AIR 1995 SC 455], the Hon'ble Supreme Court has held as under:-

“Error apparent on face of record, means an error which strikes one on mere looking at record and would not require any long drawn process of reasoning on points where there may conceivably be two opinions.”

8. In the case of *Subhash Vs. State of Maharashtra & Anr.* (AIR 2002 SC 2537), it has been emphasized that court should not be misguided and should not lightly entertain the review application unless there are circumstances falling within the prescribed limits that the Courts and Tribunal should not

proceed to reexamine the matter as if it was an original application before it for the reason that it cannot be the scope of review.

9. From the averments made, it is quite clear that by dint of this Review Application, the applicant wants to reopen and re-adjudicate on merit, which is not within the scope of the settled principles of law on the subject as enunciated by the Hon'ble Supreme Court, cited supra.

10. Having regard to the above discussions, we are of the view that there is no error apparent on the face of the record nor the review-applicants have been able to make out a case for review of the common order. In view of the above, both the RAs are dismissed, with no order as to costs.

11. With the above, Misc. Applications filed for condonation of delay also stand dismissed.

(SWARUP KUMAR MISHRA)
MEMBER(J)

(GOKUL CHANDRA PATI)
MEMBER(A)

BKS

Pre-delivery order in RA Nos.34 & 17 of 2019 is placed below for kind perusal and concurrence.

MEMBER(J)

HON'BLE MEMBER(A)