

(2018) 07 CAT CK 0101

In the Central Administrative Tribunal

Case No : Review Application No. 102 Of 2018, Miscellaneous Application No. 2854 Of 2018, Original Application No. 2954 Of 2014

Rohit Srivastava And Ors

APPELLANT

Vs

Union Of India And Ors

RESPONDENT

Date of Decision : 16-07-2018

Acts Referred:

Constitution Of India, 1950 — Article 145(3), 335

Citation : (2018) 07 CAT CK 0101

Hon'ble Judges : V. Ajay Kumar, J;Nita Chowdhury, Member (A)

Bench : Division Bench

Final Decision : Dismissed

Judgement

V. Ajay Kumar, J

MA No.2854/2018

In the circumstances, and for the reasons mentioned therein, the MA filed for condoning of the delay in filing RA is allowed.

RA No.102/2018

1. The applicants in the instant Review Application, are respondents No. 5 to 7 in OA No. 2945/2014. The said OA was disposed of by way of a common order dated 22.01.2018 vide OA No.3476/2013 and batch in Ram Pher Yadav and Others Vs. The Secretary, Railway Board and Others and the operative portion of the same, reads as under:-

"15. In the circumstances and for the aforesaid reasons, the respondents are directed to act in terms of M. Nagaraj (supra), i.e. without following the rule of reservation in promotions and to redraw the promotional lists/panels, if already issued, with all consequential benefits, however, without any back wages in the circumstances. This exercise shall be completed within 90 days from the date of receipt of a copy of this order. Accordingly, all the O.As. are disposed of.

16. All the other pending MAs, if any, stand disposed of. No costs".

2. This Tribunal while disposing of the batch of OAs, by its common order dated 22.01.2018, directed the respondents to act in terms of the Constitutional Bench decision in *M. Nagaraj and Others Vs. Union of India and Others*, (2006) SCC 212, only. The review applicants, in fact, have not raised any new ground or grounds in the review and they are simply trying to re-argue the O.A. by filing the instant RA, which is not permissible as per the settled principles of law.

3. Further, the common order dated 22.01.2018 of this Tribunal in O.A. No.3476/2013 and batch including O.A. No. 2945/2014, against which the present RA has been filed, was already upheld by the Hon'ble High Court of Delhi in W.P. (C) No.5601/2018 in *Manoj Kumar Meena and Others Vs. Union of India and Others* vide order dated 23.05.2018. The said order reads as under:-

"1. The petitioners are aggrieved by a common judgment dated 22.01.2018, passed by the Central Administrative Tribunal, wherein the issue relating to reservation in promotion was raised. In the impugned judgment, the Tribunal had relied on the directions issued by the Supreme Court in the case of *M. Nagaraj & Ors. Vs. Union of India & Others* reported as (2006) 8 SCC 212, particularly, in paras 3 and 4 thereof and held that in view of the categorical findings recorded in the aforesaid judgment and another decision of the Supreme Court in the case of *Suresh Chand Gautam Vs. State of Uttar Pradesh and Others* reported as AIR 2016 SC 1321, wherein it has been held that the State is not bound to make reservations for SCs/STs in matters of promotion and if the State wishes to exercise the discretion to make such provision, it must collect quantifiable data showing backwardness of the Class and inadequacy of the representation of that Class in public employment in addition to compliance with Article 335 of the Constitution of India. Noting that the respondents herein have not conducted the exercise as directed by the Constitution Bench in the case of *M Nagaraj (supra)* and without such an exercise being conducted, no State/Authority can apply the rule of reservation in promotion, the Tribunal has disposed of the original application with directions issued to the respondents to make compliances of the judgment in *M. Nagaraj (supra)*, by collecting the quantifiable data for giving effect to the rules of reservation in promotions.

2. Dr.K.S.Chauhan, learned counsel for the petitioners submits that the Tribunal failed to appreciate that in a recent order dated 14.11.2017, passed by the Supreme Court in Civil Appeals No.4562-4564 of 2017 entitled *State of Tripura & Ors. vs. Jayanta Chakraborty & Ors.*, it was opined that the case requires to be heard by a Bench as per the constitutional mandate under Article 145(3) of the Constitution of India, for consideration including a relook, if necessary, at the judgment of *M. Nagaraj (supra)*.

3. On perusing the order dated 14.11.2017, we find that the counsel for the petitioners therein had pressed for an interim relief, which was declined by the Supreme Court with an express view that even interim relief needs to be

considered by the Constitution Bench and liberty was granted to the parties to mention the urgency before the Hon'ble Chief Justice of India.

4. This being the position, we are not inclined to interfere in the impugned judgment or entertain the present petition, which is disposed of alongwith the pending applications with liberty granted to the petitioner to approach the Supreme Court for appropriate relief".

4. Further, the order dated 17.05.2018 in SLP No.30621/2011 in Jarnail Singh & Others vs. Lachhmi Narain Gupta & Others (Annexure RA-3) and order dated 05.06.2018 in SLP No. 28306/2017 in The State of Maharashtra & Anr. vs. Vijay Ghogre & Others (Annexure RA-4) and O.M. dated 15.06.2018, basing on which the review applicants are seeking to review the order in the O.A., are subsequent to 22.01.2018, i.e. the date of disposal of the O.A., and hence cannot be considered under the review jurisdiction of this Tribunal.

5. In the circumstances and for the aforesaid reasons, we do not find any merit in the RA and accordingly, the same is dismissed. No costs.