

(2019) 03 CAT CK 0051

In the Central Administrative Tribunal

Case No : Review Application No. 224 Of 2017 With Original Application No. 1157 Of 2013 With Miscellaneous Application No. 3864, 3865 Of 2017

Union Of India Through the General Manager

APPELLANT

Vs

Tulsi Ram

RESPONDENT

Date of Decision : 08-03-2019

Acts Referred:

Citation : (2019) 03 CAT CK 0051

Hon'ble Judges : Nita Chowdhury, J;S.N. Terdal, J

Bench : Division Bench

Advocate : Kripa Shankar Prasad, Yogesh Sharma

Final Decision : Disposed Off

Judgement

Nita Chowdhury, J

1. MA No. 3864/2017 seeking condonation of delay in filing the Review Application is allowed for the reasons recorded therein.

2. Mr. Kripa Shankar Prasad, counsel for the review applicants, has filed this RA seeking review of the order of the Tribunal dated 06.04.2017 passed in OA 1157/2013 in which the following orders were passed:-

"9. It would mean that the respondents have not challenged the applicant's contention above. The only issue on which the whole case revolves is whether the applicant who was posted at Baroda House had knowledge of the trade test conducted in 2006. According to the applicant the respondents did not put up a notice in Baroda House. The respondents reply skirts this issue and it is not categorically stated that the notice was indeed put up in Baroda House. It also seems unlikely that the aspirants for this promotional post would not have applied, had such notice been put up in Baroda House.

10. We also take notice of the fact that in 2011 the applicant did pass the trade test and got his promotion which means that he is competent enough to pass the

trade test. Benefit of doubt and preponderance of probability should go in favour of applicant. We, therefore, allow the O.A and direct the respondents to grant the applicant benefit of promotion from the date of his immediate juniors i.e., 03.10.2006 with all consequential benefits. No costs.

3. Today also, proxy counsel appears for the respondent (original applicant of the OA). It is also noted that on the previous date also, only proxy counsel appeared and sought an accommodation. However, the respondent (original applicant of the OA) has filed the counter affidavit in which it is stated that the matter was decided after taking into consideration each point and the judgment was totally decided as per law. She has only raised a preliminary objection that the RA has been filed belatedly with condonation of delay application but the said COD has already been allowed after examining the MA. Hence, the objection is overruled.

4. The review applicants are able to show us that the Tribunal had failed to appreciate that the letter dated 03.07.2013 clearly shows that a notice was put up on the notice board of all SSE's and notices in such cases are not issued individually. They are further able to show that the Tribunal, while passing the impugned order, did not appreciate the fact that the persons who have been stated to be promoted as Artisan Skilled on the basis of the trade test of 2006 are not junior to the applicant, whereas after the merger of the two scales, w.e.f. 01.01.1986, the original applicant in fact became the junior to those person. There are errors on the record as in the OA the factual position given by the respondent has not been discussed before pronouncement of the judgment.

5. Having found merit in the aforesaid contentions of the review applicants, we recall the order dated 06.04.2017 passed in OA No. 1157/2013 and the OA is restored to its original number. Accordingly, the RA is allowed and the OA shall be heard on merits. List the case on 23.04.2019. MA No. 3865/2017 also stands disposed of.