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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

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Date of decision: 21.02.2022+ **W.P.(C) 13033/2021****MR. K.C. AGGARWAL**

..... Petitioner

Through Petitioner in-person.

*versus***UNION OF INDIA & ORS.**

..... Respondents

Through Mr Ajay Digpaul, CGSC with Mr
Kamal R Digpaul, Advocate.
Mr Naresh Kaushik with Mr Anand
Singh, Advocates for R-2/UPSC.

CORAM:**HON'BLE MR. JUSTICE RAJIV SHAKDHER****HON'BLE MR. JUSTICE TALWANT SINGH****[Court hearing convened via video-conferencing on account of COVID-19]****RAJIV SHAKDHER, J. (ORAL):-**

1. This writ petition is directed against a series of orders, passed by the Central Administrative Tribunal [in short "the Tribunal"].
2. The principal grievance of the petitioner concerns his purported "illegal downgrading and supersession". The petitioner had assailed this decision of the respondents by filing an original application before the Tribunal. This application was registered as O.A. No. 3526/2011.
- 2.1 The aforementioned O.A. was dismissed by the Tribunal on 30.09.2011. The petitioner, being dissatisfied, carried the matter further by



way of a writ petition before this Court i.e., W.P.(C) No. 8380/2011. The writ petition was disposed of on 24.07.2012, whereby the Court, with the consent of counsel of the parties, remitted the matter to the Tribunal for a detailed hearing. It is because the matter had been remitted, that the Tribunal passed the order dated 28.02.2014, whereby the petitioner's O.A. was dismissed.

3. The petitioner claims that he was unaware of the order dated 28.02.2014 passed by the Tribunal, and therefore, was making representations to the Government of India, Ministry of Home Affairs (MHA) between 2014 and 2018.

3.1. It is also the petitioner's case that it was only when the petitioner applied to the Tribunal on 29.11.2018 for issuance of the certified copy of the order dated 28.02.2014, that he received information with regard to the fact that the judgement in O.A. No. 3526/2011, upon remand, had been passed on 28.02.2014.

3.2. This assertion is made in the review application dated 13.02.2019 filed by the petitioner with the Tribunal. We may also note that it is averred by the petitioner that although via communication dated 27.03.2017 addressed to him by MHA, he was informed about the disposal of the O.A., however, due to lack of clarity as to the contents of the said communication, he carried the impression that the reference made therein was to the earlier order dated 30.09.2011, whereby the O.A. was dismissed in the first instance. (See Annexure-P/23)

3.2(a) This assertion made by the petitioner, to say the least, is incredulous as, after the O.A. was dismissed in the first instance on 30.09.2011, at the behest of the petitioner, this Court via order dated 24.07.2012 passed in W.P.(C) 8380/2011, as noticed above, had remitted the matter to the Tribunal for a



fresh consideration. Therefore, the reference in MHA's letter dated 23.07.2017 could only have been to the subsequent dismissal of the O.A., via order dated 28.02.2014.

3.3. The petitioner, having received certified copy of the aforementioned order on 16.01.2019, filed a review petition against the order dated 28.02.2014, before the Tribunal. This review petition was dismissed on 12.07.2019. A perusal of the order dated 12.07.2019 shows that the petitioner was not present on that date. We are told that a practice obtains in the Tribunal, whereby review petitions are decided via circulation and hence the petitioner was not shown as present when the review petition was taken up by Tribunal for disposal.

3.4. Be that as it may, the petitioner moved an application for restoration of his review petition, which came up before the concerned Bench on 04.10.2019. The order passed by the concerned Bench of the Tribunal reads as follows :

"MA No.2809/2019"

OA No.3526/2011 was filed by the applicant challenging the proceedings of the Selection Committee, held at its meeting on 07.07.2010 and 28.12.2010. The applicant filed RA No.141/2019, seeking review of the said order. Since there was a delay of five years in filing the Review Petition, he filed MA No.2032/2019 for condonation of delay. The same review was dismissed on 12.07.2019. This Application is filed with a prayer to restore the MA No.2032/2019.

We heard the applicant who argued the case in person.

The OA is of the year 2011 and it was decided way back on 28.02.2014, through a detailed order running into 27



pages. Assuming that there is anything wrong with the order in the OA, the applicant can pursue further remedies. The RA itself was filed after five years. The MA for condonation of delay was dismissed. We are not convinced to restore the MA and the same is, accordingly, rejected.

Registry is directed not to entertain any Application with reference to this OA.”

4. It is in this background that the present writ petition has been filed, whereby the petitioner has assailed the order dated 28.02.2014 passed in O.A. No. 3526/2011, order dated 12.07.2019 passed in M.A. No. 2032/2019 and R.A. No. 141/2019 and order dated 04.10.2019 passed in M.A. No. 2809/2019.

5. We have queried the petitioner, who appears in person, as to why there was a delay of nearly five years in filing the review petition, and, thereafter, in approaching this Court.

5.1. Mr K.C. Aggarwal, as indicated above, has reiterated that he was unaware of the fact that Tribunal had pronounced the order dated 28.02.2014 whereby the aforementioned O.A., i.e., O.A. 3526/2011, upon remand, stood decided.

5.2. We find this submission incredulous for the reason that, on his own admission, the petitioner has served as a Principal Judicial Magistrate in the Rajasthan Judicial Service, prior to his having joined the Delhi, Andaman and Nicobar Islands, Lakshadweep, Dadra and Nagar Haveli and Daman and Diu Civil Service (DANICS) in September 1982.

5.3. The grievance that the petitioner has raised before the Tribunal, both in the first and the second round, relates to the decision reached by the Selection Committee in its meetings held on 07.07.2010 and 28.12.2010.



5.4. According to the petitioner, he was downgraded illegally as the Selection Committee could not have downgraded him, as per the rules which were obtaining, at that point in time. We are informed that the downgrading concerns ACRs of 2002-2003 to 2006-2007.

6. Willy-nilly, a decision on the petitioner's plea was taken by the Tribunal as far back as on 28.02.2014. We are unable to appreciate the petitioner's submission, that he was unaware of the fact that the Tribunal had decided the aforementioned O.A. on 28.02.2014.

6.1. It is a well-established fact that the judgments are pronounced by the Tribunal in an open forum, after intimation to that effect is published in the cause list issued for the day. This position has been affirmed both by Mr Naresh Kaushik and Mr Ajay Digpaul, who appear before the Tribunal frequently and are also the counsel appearing for the respondents, in the above-captioned matter. Mr Kaushik appears for respondent no.2 i.e., Union Public Services Commission (UPSC), while Mr Digpaul appears on behalf of respondent nos. 1 and 2, in effect, Union of India.

6.2. As a matter of fact, the Registry of the Tribunal, in its response to the petitioner's application under the Right to Information Act, 2005 dated 19.03.2019, has clearly confirmed the fact that the order dated 28.02.2014 was pronounced in the open Court. (See Annexure P/31.)

7. Thus, for the foregoing reasons, we find no error in the orders passed by the Tribunal.

7.1. This is especially so in the petitioner's case, given his background of having functioned as a judicial officer. The very least that the petitioner could have done, if he carried any doubt that he may have missed the pronouncement of the judgement by the concerned bench was to move an



application for inspection of the case file.

8. The writ petition is, accordingly, dismissed.

RAJIV SHAKDHER, J

TALWANT SINGH, J

FEBRUARY 21, 2022

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