

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

% *Date of decision: April 28, 2023*

+ W.P.(C) 10835/2020

SUNIL KUMAR & ANR.

..... Petitioners

Through: Mr. Anil Kumar Singhal, Adv.

versus

UNION OF INDIA

..... Respondent

Through: Mr. Niraj Kumar, Sr. Central Govt.
Counsel.

CORAM:

HON'BLE MR. JUSTICE V. KAMESWAR RAO

HON'BLE MR. JUSTICE ANOOP KUMAR MENDIRATTA

V. KAMESWAR RAO, J. (ORAL)

1. The challenge in this petition is primarily to the two orders passed by the Central Administrative Tribunal ('Tribunal', for short) on January 23, 2020 and March 6, 2020 in OA 3882/2014 and RA 27/2020 in OA 3882/2020 respectively, whereby the Tribunal has rejected the Original Application and also the Review Application filed by the petitioners herein.

2. The only submission made by Mr. Anil Kumar Singhal, learned counsel appearing for the petitioners is that the Tribunal without recording any finding only on the basis of the averments made by the respondents in their counter-affidavit has rejected the OA. He also submits that the petitioners had relied upon the judgments of the Tribunal in support of their case that the muster roll engagement needs to be counted for the purpose of pensionary

benefits. We have seen the order passed by the Tribunal. Suffice to state, in Paragraph 5 of the impugned order, learned counsel for the petitioner has relied upon three judgments.

3. After noting the submissions made by learned counsel for the respondent on the basis of averments made in the reply, the Tribunal has in paragraph 7 of the order, stated as under:-

“In view of the facts and circumstances narrated above, we are of the view that the relief prayed for by the applicants cannot be granted. Accordingly, OA is dismissed. MAs pending stand disposed of. No order as to costs.”

4. The conclusion arrived at by the Tribunal in paragraph 7 of the impugned order is not a finding to the contentions urged / raised by the counsel for the parties. In fact, there is no reference to the judgments as relied upon by the counsel for the petitioners. Even the review application filed by the petitioners was rejected on the ground, scope of review is limited when there is an error apparent on the face of the order and no such ground has been urged.

5. We are of the view that appropriate should have been for the Tribunal to come to a definite conclusion with regard to the pleas urged by the counsel for the petitioners, that too by considering the judgments relied upon by the counsel for the petitioners. As the same has not been done, we set aside the impugned orders and restore the original application on the Board of the learned Tribunal for it to adjudicate the OA afresh and pass a reasoned and speaking order in accordance with law.

6. With the above, the petition is disposed of.
7. OA be listed before the learned Joint Registrar of the Tribunal on May 15, 2023 under the heading "Directions".

V. KAMESWAR RAO, J

ANOOP KUMAR MENDIRATTA, J

APRIL 28, 2023/jg

