

WEST BENGAL ADMINISTRATIVE TRIBUNAL

Bikash Bhavan, Salt Lake, Kolkata – 700 091.

Present-

The Hon'ble Justice Soumitra Pal, Chairman

The Hon'ble Sayeed Ahmed Baba, Administrative Member

Case No. – RA 5 OF 2015 (OA 1168 OF 2013)

**DIRECTOR OF TECHNICAL EDUCATION AND TRAINING, GOVERNMENT OF WEST BENGAL &
OTHERS - VERSUS - TARUN KUMAR KHARA**

Serial No. and
Date of order

30
06.07.2022

For the Review Applicants (State : Mr. Goutam Pathak Banerjee
respondents in Original Application) Mrs. Sunita Agarwal
Advocates

For the Respondents / Opposite Party : Mr. D.Sarkar
(Applicants in Original Application) Advocate

The application, being RA-5 of 2015, was filed on 28th August, 2015
praying for the following order:

“ In the premises aforesaid, the petitioner herein most humbly prays that Your Lordships may graciously be pleased to review the Judgement dated 28-07-2015 delivered by Hon'ble K.Chakraborty, Member (Judicial), sitting with Hon'ble Dr.A.K.Chanda, Member (Administrative), of the West Bengal Administrative Tribunal, Calcutta, in connection with the O.A. No. 1168 of 2013 (Tarun Kumar Khara -Vs- The State of West Bengal and others), after recalling the same and to hear the matter and/or to pass such Order or further Order or Orders as to this Hon'ble Tribunal may deem fit and proper.”

It is to be noted that the Original Application, being OA-1168 of 2013, was filed on 18th September, 2013. Directions were issued to file reply and rejoinder. Parties filed reply and rejoinder. The matter was heard and the judgement was delivered on 28th July, 2015, the relevant portion of which is as under:

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“ 23. In view of the above, having regard to the submission made by the ld. Counsels of both sides as also the facts and circumstances of the present case, we are of the opinion that the impugned transfer order dated 15-05-2013 issued by the Director of Technical Education & Training is bad in law as he lacked jurisdiction to issue such order of transfer in respect of the applicant for the reasons stated above.

24. The application, therefore, succeeds. Accordingly, we dismiss the impugned order of transfer dated 15-05-2013 and direct the respondent authorities to allow the applicant to join his earlier place of posting at North Calcutta Polytechnic as Junior Lecturer.”

Thereafter, the State respondents filed the application for review on 28th August, 2015. Reply to the application for review was filed by the respondents / original applicant on 9th November, 2015. The applicant / State respondents filed the rejoinder on 15th February, 2016.

It appears the applicant / State respondents in the review application had, inter alia, stated

“ 2. That while allowing the said Original Application, Their Lordships in the said Judgement dated 28-07-2015 had admitted the fact that in terms of the G.O. No. 719-Edn(TP) dated 03-12-1988 the Director of Technical Education had the power to transfer a junior Lecturer, erstwhile

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Demonstrator, while Their Lordships further opined that the G.O. No. 416-TET dated 15-03-2000, which has been produced by the State Respondents regarding delegation of all administrative and financial powers to the post of Director of Technical Education and Training, Government of West Bengal, did not delegate any power of the Governor to transfer a Group- 'A' employee. The fact remains that inadvertently and/or through bonafide mistake on the part of the State Respondents, the G.O. No. 1-Edn(T)/IT-2/97 dated the Calcutta, the 1st January, 1999 was not produced before this Learned Tribunal at the time of hearing of the matter wherefrom it reveals that following the creation of TET Department with a post of the allocated work attached to the former Education Department functional division of the Directorate of Technical Education has been done under Memo No. 499-Edn(T) dated 03-12-1997 and with the said functional division the permit of the work of the Directorate of Technical Education related to Polytechnics, Jr. Technical Schools and other related institutions under administrative control of the Department of Technical Education and Training have devolved upon the Additional Project Director, S.P.I.U. & Ex-officio O.S.D. as hierarchal apex, the remaining part of the Director of Technical Education lying with the Director of Technical Education and accordingly in exercise of the powers conferred in Rule 15 of the Delegation of Financial Power Rules, 1977 re-delegate all the powers both administrative and financial

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power of the Department of the former composite Directorate to the Additional Project Director, S.P.I.U. & Ex-officio O.S.D. under the administrative control of the TET Department. It further appears from the Notification No. 101-TET (Poly)/4E-1/2000 dated 20-01-2000 of the Department of Technical Education and Training that the Governor was pleased to appoint one Sri R.C.Bhattacharya, acting as a Project Director, S.P.I.U. & Ex-officio O.S.D., Department of Technical Education, West Bengal on promotion to the newly created post of Director of Technical Education and Training.”

Thereafter, it has been stated

“4. That it appears from the aforesaid statements that due to some miscommunication the State Respondents had failed to produce the vital documents relating to the case chronologically at the time of hearing which are indispensable for proper adjudication of the instant matter and as such, the instant review application should be allowed for the ends of Justice or otherwise the State Respondents will suffer irretrievable loss and injury.”

The respondents / original applicant in paragraph 2 of the reply had stated that the review application is not maintainable since the application for review is filed upon discovery of certain documents which were in existence since long. As the review petitioner failed and/or neglected to show any reason as to why the same was not relied upon earlier and as therefore it cannot be stated that the review petitioner was prevented by sufficient reason in disclosing the

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said documents earlier and as sufficient reason is the basis for filing the review application and non-relying upon the said documents inadvertently cannot be the ground for review and non-filing of the said documents by bonafide mistake is not a ground for review, the review application be dismissed.

In the rejoinder filed by the review applicant / state respondents, particularly in paragraph 5 thereof, it has been stated that the non production of the relevant Government Order at the time of hearing of the original application is not negligence on the part of the authority and it was due to inadvertence. It has been stated that the relevant file could not be located due to shifting of Technical Education Department and Directorate offices from Bikash Bhavan, Salt Lake City to New Town, Rajarhat at the end of 2013. After the relevant G.Os. could be traced, the application for review was filed.

We have heard Mr.G.P.Banerjee, learned advocate for the applicant / State respondents and Mr. D.Sarkar, learned advocate for the respondents/ Original applicant. In our view, the review application is not maintainable as while filing the review application on 28th August, 2015, the applicants did not state the sufficient reason for filing the application for review which the applicants have tried to state in the rejoinder to the application for review, particularly paragraph 5 thereof, which is not permissible under the law. Moreover, no specific grounds have been taken in support of the application for review. Hence, the application for review is dismissed. No order as to cost.

(SAYEED AHMED BABA)
MEMBER(A)

(SOUMITRA PAL)
CHAIRMAN

BLR