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(Judgment reserved on 08.05.2026)

(Judgment delivered on 21.05.2026)



2026:AHC:117629-DB

HIGH COURT OF JUDICATURE AT ALLAHABAD

Civil Misc. Review Application No.03 of 2019

IN

WRIT - A No. - 7653 of 2019

Ashok Kumar Yadav and 2 others

.....Petitioner(s)

Versus

Union of India and 2 others

.....Respondent(s)

Counsel for Petitioner(s) :
Counsel for Respondent(s) :

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Court No. - 21

**HON'BLE MAHESH CHANDRA TRIPATHI, J.
HON'BLE PRAKASH PADIA, J.**

(Per: Mahesh Chandra Tripathi, J.)

A. Appearance of Counsel:-

1. Heard Shri Fuzail Ahmad Ansari, learned amicus curiae for the applicants-petitioners and Shri P.N. Rai, learned counsel for the respondents- opposite parties on the review application and the writ petition.

B. Prayer:-

2. The present review application has been preferred in Writ-A No. 7653 of 2019 (*Ashok Kumar Yadav & 2 others v. Union of India & 2 others*) with the prayer to review the judgment and order dated 16.05.2019 whereby the said writ petition was dismissed by a Division Bench of this Court comprising one of us, i.e., Hon'ble Prakash Padia, J. By the said judgment, the order dated 06.02.2019 passed by the Central Administrative Tribunal, Allahabad¹, dismissing Original Application No.330/00624/2016² as barred by limitation, was upheld.

2.1. It is clarified that this order is being passed both on the review application as well as on the writ petition. Upon the review application being allowed and the judgment dated 16.05.2019 being recalled, Writ-A No.7653 of 2019 stands restored to its original number. This Court is accordingly proceeding to dispose of the said writ petition on merits as well. As such, both the proceedings are being finally disposed of by this common order for the reasons set forth in the following paragraphs.

1 Tribunal

2 Original Application in question

C. Brief Facts:

3. The aforesaid Original Application in question was filed by the applicants-petitioners, namely Ashok Kumar Yadav, Riaz Babu and Chhail Behari, seeking directions against the railway authorities regarding their seniority and promotional benefits. The applicants prayed that they should be treated at par with one Mohd. Niyaz, who according to them had secured lower marks and a lower position in the merit list but was engaged earlier than them. They also sought promotional benefits similar to those granted to him.

3.1. The case of the applicants - petitioners before the Tribunal was that they were holders of National Apprenticeship Certificates and were regularised on the post of Helper with effect from 03.02.2014 by order dated 03.03.2014. They submitted representations against the said order and challenged the seniority list circulated on 13.10.2015. According to them, their seniority was not fixed in accordance with earlier directions issued by the Tribunal and the provisions of the Indian Railway Establishment Manual. They contended that the respondents failed to properly consider their claim and wrongly denied them the benefit of seniority and promotion.

3.2. The respondents opposed the Original Application and stated that the applicants - petitioners could not compare themselves with Mohd. Niyaz because he belonged to the Wireman Trade, whereas the applicants belonged to Fitter and Carpenter Trades. It was argued that separate seniority lists are maintained for different trades and therefore the claim of parity was not legally sustainable.

3.3. After hearing both sides and examining the records, the Tribunal found that Mohd. Niyaz had been engaged in service in the year 1990, whereas the applicants - petitioners themselves were appointed only in the year 2014. Therefore, the applicants - petitioners could not claim equality or seniority with a person who had entered into its service much

earlier. The Tribunal further observed that if the applicants - petitioners had any grievance regarding the appointment or seniority of Mohd. Niyaz, the cause of action had arisen in the year 1990 itself. However, the said Original Application was filed only in the year 2016 after an extraordinary delay of about 26 years.

3.4. The Tribunal considered the provisions of Section 21 of the Administrative Tribunals Act, 1985³ relating to limitation and delay. The Tribunal further observed that the applicants had failed to give any satisfactory explanation for the enormous delay and had not even filed any proper application for condonation of delay. It held that the conduct of the applicants showed negligence and inaction from the very beginning. The Tribunal also noted that entertaining such delayed claims relating to seniority and promotion would disturb settled positions and create unnecessary complications.

3.5. Apart from limitation, the Tribunal also found no merit in the case of the applicants - petitioners because the comparison with Mohd. Niyaz was itself incorrect due to the difference in trades and separate seniority lists. Accordingly, the Tribunal held that the claim of the applicants - petitioners was barred by limitation as well as devoid of merit. Consequently, the Original Application was dismissed vide order dated 06.02.2019. The said order was challenged in the instant writ petition (Writ-A No. 7653 of 2019), which was dismissed by judgment and order dated 16.05.2019 review of which is being sought in the instant review application. For ready reference the order dated 16.05.2019 is reproduced below:

“Heard learned counsel for the petitioners. Sri Vivek Kumar Rai has accepted notice on behalf of the respondents.

The petitioners have preferred this petition against the judgment and order dated 6th February 2019 of the Central Administrative Tribunal whereby Original Application of the petitioners has been dismissed as barred by limitation.

3 The Act, 1985

A perusal of the pleadings reveal that the petitioners have filed Original Application claiming seniority in terms of directions dated 2.6.2002 given by the tribunal in Original Application Nos. 1021 and 1215 of 2001 as well as the directions given by the tribunal in Original Applications No. 1101 of 1997 and 511 of 2001 vide order dated 16.4.2002.

In view of the aforesaid relief claimed by the petitioners in the Original Application, the cause of auction for the seniority as claimed by them arose on 2.6.2002 and 16.4.2002 respectively. The petitioners preferred Original Application in the year 2016.

The tribunal in view of Section 21 of the Administrative Tribunals Act, 1985 as such has rightly held that the claim petition is hopelessly barred by time. It can not be entertained as there is no sufficient cause for condoning the delay. This apart, it has also been held that there is no purpose for disturbing the long drawn seniority which has been prevailing since 2002.

In view of the aforesaid facts and circumstances, we find no error or illegality in the order of the tribunal which may warrant exercise of its discretionary jurisdiction in the matter.

The writ petition is dismissed accordingly.”

D. Submission on behalf of the applicants-petitioners:-

4. Shri Fuzail Ahmad Ansari, learned amicus curiae for the applicants-petitioners submits that the judgment and order dated 16.05.2019 passed by the Division Bench as well as the order dated 06.02.2019 passed by the Tribunal suffer from an apparent error on the face of record inasmuch as both the Courts proceeded on an incorrect assumption that the cause of action of the petitioners had arisen in the year 1990 or at the latest in the year 2002, whereas in fact the applicants - petitioners were granted appointment only on 07.05.2013 and were regularised on 03.03.2014 with effect from 03.02.2014. It is thus submitted that the grievance regarding fixation of seniority actually arose only after their regularisation and preparation of seniority list in the year 2014.

4.1. It is further argued that the petitioners had completed their three years compulsory apprenticeship training during the period from 14.05.1986 to 15.05.1989 and had secured higher marks than one Mohd. Niyaz in the examination held at the end of the training period. The

applicant-petitioner No.1- Ashok Kumar Yadav secured 445/700 marks, applicant-petitioner No.2 - Riyaz Babu secured 417/700 marks and applicant-petitioner No.3 - Chhail Bihari secured 413.5/700 marks, whereas Mohd. Niyaz secured only 391/700 marks. Despite having secured lesser marks, Mohd. Niyaz was appointed on the post of Khalasi (Group-D) on 02.04.1990, whereas the applicants - petitioners were denied similar benefit.

4.2. Learned amicus curiae further submits that after coming to know that several persons junior in merit had been granted appointment, the applicants - petitioners approached the Principal Bench of the Central Administrative Tribunal, New Delhi⁴ by filing O.A. No.1215 of 2001 (Chhail Bihari and 2 others vs. GM Central Railway). The said Original Application was allowed on 03.06.2002 in terms of the decision rendered in Original Application No.1021 of 2001 (Rama Shankar and 50 others vs. Union of India). By the aforesaid order, the respondents were specifically directed to maintain a seniority list of trained apprentices according to their merit and batch and to reconsider adjustment and appointment accordingly.

4.3. It is argued that the aforesaid order dated 03.06.2002 attained finality up to the Hon'ble Supreme Court. The writ petition challenging the same filed by the Railway Authorities before the Delhi High Court being W.P.(C) No.197 of 2003 was dismissed on 24.05.2012. Thereafter, the Special Leave Petition (SLP CC No.2941/2013) filed before the Hon'ble Supreme Court was also dismissed on 18.03.2013. Therefore, according to learned counsel, the directions issued vide order dated 03.06.2002 by the Tribunal regarding maintenance of seniority according to merit became final and binding upon the respondents.

4.4. Learned amicus curiae further submits that when the respondents failed to comply with the directions issued by the Principal Bench, CAT, New Delhi in O.A. No.1215 of 2001 even after dismissal of the writ

4 Principal Bench, CAT, New Delhi

petition preferred by the Railway Authorities, the petitioners were constrained to initiate contempt proceedings before the Tribunal for enforcement of the aforesaid directions. It is argued that only thereafter the respondents proceeded to issue appointment orders to the petitioners on 07.05.2013. According to learned counsel, this itself clearly establishes that the petitioners had been continuously pursuing their grievance and had never abandoned their claim. Therefore, the findings recorded by the Tribunal as well as by the Division Bench of this Court that the applicants - petitioners were guilty of delay, laches and inaction are wholly incorrect, misplaced and contrary to the material available on record.

4.5. It is next submitted that even after the aforesaid orders attained finality, the respondents failed to correctly implement the directions issued by the Principal Bench, CAT, New Delhi. The petitioners were offered appointment only on 07.05.2013 on substitute Group-D posts and thereafter were regularised on 03.03.2014. However, while fixing their seniority on 09.04.2014, the Railway Authorities wrongly treated them as casual labour/substitute employees instead of giving them proper seniority according to their merit position amongst trained apprentices.

4.6. Learned amicus curiae further submits that immediately after regularisation and fixation of incorrect seniority, the petitioners submitted representation dated 14.03.2014 seeking implementation of the order dated 03.06.2002 passed in Original Application No.1215 of 2001. Thereafter, a final representation/appeal was also submitted before the General Manager, North Central Railway, Saraswati Parishar, Subedarganj, Allahabad on 15.09.2015 praying that the petitioners be placed above Mohd. Niyaz in accordance with their higher merit. The said representation was rejected on 27.10.2015 and thereafter the petitioners promptly filed Original Application in question before the Tribunal on 25.02.2016.

4.7. It is thus contended that the Tribunal as well as the Division Bench committed manifest error in holding that the Original Application was barred by limitation. According to learned counsel, the cause of action cannot be said to have arisen in the year 1990 because the petitioners themselves were not appointed at that time. Their real grievance arose only after the respondents failed to correctly implement the binding directions issued in O.A. No.1215 of 2001 and wrongly fixed their seniority after their appointment and regularisation in the year 2014.

4.8. It is further argued that the petitioners are not seeking disturbance of any settled seniority position from the year 1990, but are merely praying for implementation of the directions already issued by the Tribunal and affirmed up to the Hon'ble Supreme Court, *to wit* that trained apprentices are required to be assigned seniority according to their merit and batch. Therefore, the finding recorded by the Tribunal that the petitioners were seeking to reopen stale claims is factually and legally incorrect.

4.9. Learned *amicus curiae* also submits that the Tribunal failed to appreciate that the petitioners and Mohd. Niyaz belong to the same category of trained apprentices and the petitioners had consistently asserted their right from the very beginning. It is argued that once the respondents themselves granted appointment to the petitioners pursuant to the earlier litigation, they could not thereafter deny them appropriate seniority in accordance with merit.

4.10. Shri Ansari, learned *amicus curiae*, vehemently argued that although the applicants, in the first round of litigation, had succeeded in their claim up to the Supreme Court, there was no delay in raising the issue of seniority while instituting the second proceedings before the Tribunal. He submitted that, instead of deciding the matter on merits, the entire emphasis of the Tribunal was to non-suit the applicants on the

ground that the gradation list had already been finalized, and to hold that the matter was stale and old. He further contended that, although the Tribunal touched upon the merits in a solitary paragraph, no reasons whatsoever were assigned for rejecting the claim, which has caused grave injustice to the applicants. As such, the order passed by the Division Bench is liable to be reviewed, and the Tribunal be directed to decide the matter on merits.

4.11. It is lastly submitted that the judgment and order dated 16.05.2019 passed by this Court proceeded only on the question of limitation without considering the true nature of the relief sought by the petitioners and the effect of the earlier binding orders passed by the Principal Bench, CAT, New Delhi, Delhi High Court and Hon'ble Supreme Court. It is therefore prayed that the judgment and order dated 16.05.2019 be reviewed and recalled and the writ petition be allowed on merits after restoration of the same in the interest of justice.

E. Submission of Respondents-opposite parties:-

5. Per contra, Shri P.N. Rai, learned counsel for the respondents-opposite parties submits that no error apparent on the face of record has been shown so as to warrant exercise of review jurisdiction by this Court. It is argued that the review applicants - petitioners are merely seeking rehearing of the matter on merits, which is not permissible in review proceedings.

5.1. It is further submitted that the Tribunal as well as the Division Bench of this Court have rightly held that the claim raised by the applicants was hopelessly barred by limitation. He also submits that the grievance of the applicants regarding appointment and seniority relates back to the year 1990 and, therefore, the Original Application filed in the year 2016 after an enormous and unexplained delay was rightly dismissed. It is also argued that separate seniority lists are maintained for

different trades and, therefore, the applicants - petitioners cannot claim parity with Mohd. Niyaz, who belonged to a different trade. Accordingly, it is prayed that the review application being devoid of merit is liable to be dismissed.

F. Discussion and Findings:-

6. Having considered the submissions advanced by the learned counsel for the parties and having carefully perused the record, this Court is of the opinion that the review application deserves to be allowed. There are glaring errors apparent on the face of record which have resulted in a gross miscarriage of justice. Both the Tribunal as well as the Division Bench of this Court proceeded on a fundamentally erroneous appreciation of the factual matrix, resulting in an incorrect determination of the cause of action and consequently an unjust dismissal of the petitioners' claim on the ground of limitation.

6.1. The first and most significant error apparent on the face of record is the misplaced assumption taken by both the Tribunal and the Division Bench that the cause of action of the applicants - petitioners arose either in the year 1990, when Mohd. Niyaz was appointed, or in the year 2002, when the Principal Bench, CAT, New Delhi issued directions in Original Application No.1215 of 2001. This assumption is demonstrably incorrect. The applicants - petitioners were not appointed into service until 07.05.2013 and were not regularised until 03.03.2014. A person who has not yet been appointed to service cannot possibly have a cause of action for grievance in respect of seniority *inter se* among members of that service. The concept of cause of action necessarily presupposes the existence of a right which has been violated. Until the petitioners were appointed and their seniority was fixed, no cause of action for a grievance qua seniority could have arisen against them.

6.2. The record further discloses that the applicants - petitioners were regularised on 03.03.2014 with effect from 03.02.2014. Even prior to the formal fixation of seniority, the applicants - petitioners submitted a representation on 14.03.2014 seeking correct implementation of the order dated 03.06.2002 passed in O.A. No.1215 of 2001, having apprehended that their seniority would not be fixed in accordance with the binding directions of the Tribunal. Their apprehension proved well-founded as the seniority was thereafter wrongly fixed on 09.04.2014, treating them as casual or substitute employees rather than as trained apprentices ranked by merit. Thereafter, the seniority list was formally circulated on 13.10.2015. The petitioners also preferred a representation before the General Manager on 15.09.2015 and, upon its rejection on 27.10.2015, promptly filed the Original Application in question before the Tribunal on 25.02.2016, i.e. within approximately four months of the final rejection. Read in sequence, the conduct of the petitioners is wholly inconsistent with any finding of laches or inaction; on the contrary, it demonstrates persistent and diligent pursuit of a legitimate claim at every stage.

6.3. The second error, equally apparent, is the failure of both the Tribunal and the Division Bench to appreciate the significance and binding nature of the earlier proceedings. The petitioners had been engaged in litigation since the year 2001 by filing Original Application No.1215 of 2001 before the Principal Bench, CAT, New Delhi. The said Original Application was allowed vide order dated 03.06.2002 directing the Railway Authorities to maintain seniority of trained apprentices according to merit and batch. The Railway Authorities, instead of complying with the said directions, challenged the same before the Delhi High Court and thereafter before the Hon'ble Supreme Court. In the meantime, having waited for years without any compliance, the petitioners were constrained to initiate contempt proceedings, being Contempt Petition No.778 of 2012 (*Chhail Bihari and others v. Union of India*), before the Tribunal. The challenge by the Railway Authorities

also proved to be in vain as the SLP filed before the Hon'ble Supreme Court was ultimately dismissed on 18.03.2013. It was only under the pressure of the said contempt proceedings that the appointment orders were eventually issued on 07.05.2013. The order dated 08.05.2013 passed in Contempt Petition No.778 of 2012 records as under:

*"Counsel for respondents states that in compliance of the order of this Tribunal dated 03.06.2002, appointment letters have been issued for three applicants and fourth applicant has since passed away. The appointment letters are taken on record and in view of the same, nothing survives in the petition. CP is accordingly closed. Notices are discharged. **If, however, any grievance still remains, the applicants shall be at liberty to seek remedy through appropriate proceedings.**"*

(Emphasis supplied)

6.4. The aforesaid order leaves no manner of doubt that the appointment of the petitioners on 07.05.2013 was not a voluntary act of compliance by the Railway Authorities but was the direct result of contempt proceedings initiated by the petitioners after the directions of the Tribunal had remained unimplemented for over a decade. More significantly, the Tribunal itself, while closing the contempt petition, expressly preserved the petitioners' right to seek further remedy through appropriate proceedings in respect of any remaining grievance. The Original Application in question filed by the petitioners in the year 2016, challenging the incorrect fixation of their seniority after regularisation, is precisely such an appropriate proceeding, sanctioned and anticipated by the Tribunal's own order. Calling such parties lazy or blaming them for delay would be completely opposite to what the record actually shows.

6.5. The third error is the failure to appreciate that the petitioners are not seeking to reopen or disturb any settled seniority position dating back to 1990. What they seek is the correct implementation of a binding and final direction issued by the Principal Bench, CAT, New Delhi in O.A. No.1215 of 2001, which attained finality up to the Supreme Court, directing that the seniority of trained apprentices be fixed according to

their merit in the trade test. Since the petitioners were appointed and regularised under that litigation, they have a legal right to get their seniority fixed according to that direction. The respondents cannot be permitted to use the ground of limitation as a shield to defeat the enforcement of a direction which was obtained by the applicants - petitioners themselves after years of protracted litigation.

6.6. On the scope and power of review, and the constitutional obligation of Courts to rectify errors that cause miscarriage of justice, this Court finds direct guidance in the celebrated judgment of the Hon'ble Supreme Court in *S. Nagaraj v. State of Karnataka*⁵, wherein the Hon'ble Supreme Court authoritatively expounded the philosophy and amplitude of review jurisdiction. In paras 18 and 19 of the said judgment, the Hon'ble Supreme Court observed and held as under:

"18. Justice is a virtue which transcends all barriers. Neither the rules of procedure nor technicalities of law can stand in its way. The order of the Court should not be prejudicial to anyone. Rule of stare decisis is adhered for consistency but it is not as inflexible in Administrative Law as in Public Law. Even the law bends before justice. Entire concept of writ jurisdiction exercised by the higher courts is founded on equity and fairness. If the Court finds that the order was passed under a mistake and it would not have exercised the jurisdiction but for the erroneous assumption which in fact did not exist and its perpetration shall result in miscarriage of justice then it cannot on any principle be precluded from rectifying the error. Mistake is accepted as valid reason to recall an order. Difference lies in the nature of mistake and scope of rectification, depending on if it is of fact or law. But the root from which the power flows is the anxiety to avoid injustice. It is either statutory or inherent. The latter is available where the mistake is of the Court. In Administrative Law the scope is still wider. Technicalities apart if the Court is satisfied of the injustice then it is its constitutional and legal obligation to set it right by recalling its order. Here as explained, the Bench of which one of us (R.M. Sahai, J.) was a member did commit an error in placing all the stipendiary graduates in the scale of First Division Assistants due to State's failure to bring correct facts on record. But that obviously cannot stand in the way of the Court correcting its mistake. Such inequitable consequences as have surfaced now due to vague affidavit filed by the State cannot be permitted to continue.

19. Review literally and even judicially means re-examination or reconsideration. Basic philosophy inherent in it is the universal acceptance of human fallibility. Yet in the realm of law the courts and even the statutes lean strongly in favour of finality of decision legally and properly made. Exceptions both statutorily and judicially have been carved out to correct accidental mistakes or miscarriage of justice. Even when there was no statutory provision and no rules were framed by the highest court indicating

5 1993 (Supp4) SCC 595

the circumstances in which it could rectify its order, the courts culled out such power to avoid abuse of process or miscarriage of justice. In Raja Prithvi Chand Lal Choudhury v. Sukhraj Rai and others, AIR (1941) Federal Court 1, the Court observed that even though no rules had been framed permitting the highest court to review its order yet it was available on the limited and narrow ground developed by the Privy Council and the House of Lords. The Court approved the principle laid down by the Privy Council in Rajinder Narain Rae v. Bijai Govind Singh, 1 Moo PC 117, that an order made by the Court was final and could not be altered,

“nevertheless, if by misprision in embodying the judgments, by errors have been introduced, these Courts possess, by common law, the same power which the Courts of record and statute have of rectifying mistakes made in drawing up its own judgments, and this Court must possess the same authority. The Lords have however gone a step further, and have corrected mistakes introduced through inadvertence in the details of judgments; or have supplied manifest defects in order to enable the decrees to be enforced, or have added explanatory matter, or have reconciled inconsistencies.”

Basis for exercise of the power was stated in the same decision as under:

'It is impossible to doubt that the indulgence extended in such cases is mainly owing to the natural desire prevailing to prevent irremediable injustice being done by a Court of last resort, where by some accident, without any blame, the party has not been heard and an order has been inadvertently made as if the party had been heard.'

Rectification of an order thus stems from the fundamental principle that justice is above all. It is exercised to remove the error and not for disturbing finality. When the Constitution was framed the substantive power to rectify or recall the order passed by this Court was specifically provided by Article 137 of the Constitution. Our Constitution-makers who had the practical wisdom to visualise the efficacy of such provision expressly conferred the substantive power to review any judgment or order by Article 137 of the Constitution. And clause (c) of Article 145 permitted this Court to frame rules as to the conditions subject to which any judgment or order may be reviewed. In exercise of this power Order XL had been framed empowering this Court to review an order in civil proceedings on grounds analogous to Order XLVII Rule 1 of the Civil Procedure Code. The expression, 'for any other sufficient reason' in the clause has been given an expanded meaning and a decree or order passed under misapprehension of true state of circumstances has been held to be sufficient ground to exercise the power. Apart from Order XL Rule 1 of the Supreme Court Rules this Court has the inherent power to make such orders as may be necessary in the interest of justice or to prevent the abuse of process of court. The Court is thus not precluded from recalling or reviewing its own order if it is satisfied that it is necessary to do so for sake of justice."

(Emphasis supplied)

6.7. The observations of the Hon'ble Supreme Court in paras 18 and 19 in **S. Nagaraj** (supra) quoted above are directly applicable to the facts of the present case. The judgment and order dated 16.05.2019 was passed by the Division Bench on an erroneous assumption of fact, namely that the cause of action had arisen in the year 1990 or 2002, without advertent to the undisputed material on record showing that the

applicants - petitioners were not even appointed until 07.05.2013 and were not regularised until 03.03.2014. This was exactly the kind of mistake, caused by ignoring important facts, which the Hon'ble Supreme Court has held to be a proper ground for review. As observed in **S. Nagaraj** (supra), if the Court finds that the order was passed by mistake and the Court would not have passed such order if the correct facts had been known, and if allowing the mistake to continue would cause injustice, then the Court can correct the error. It is this Court's constitutional and legal obligation to set right the injustice by recalling its earlier order. Both the impugned orders are accordingly vitiated by errors apparent on the face of record and are liable to be set aside.

G. Conclusion:-

7. In the light of the foregoing discussion, this Court holds as follows:

(i) Both the judgments and orders dated 16.05.2019 passed by this Court in Writ-A No. 7653 of 2019 and dated 06.02.2019 passed by the Tribunal in the Original Application in question suffer from following errors apparent on the face of the record:

(a) both the Tribunal and this Court proceeded on a fundamentally incorrect understanding of the cause of action by treating it as having arisen in the years 1990 or 2002, whereas the petitioners were appointed in service only on 07.05.2013, and consequently held the claim to be barred by limitation;

(b) both Courts failed to appreciate that the petitioners had been continuously and diligently pursuing their grievance since the year 2001, including through contempt proceedings, and were therefore not guilty of delay, laches, or inaction;

(c) both Courts failed to appreciate that the relief sought was not intended to disturb any settled seniority position, but merely sought enforcement of the binding directions issued in O.A. No.1215 of 2001, as affirmed up to the Hon'ble Supreme Court, requiring fixation of seniority according to merit and batch;

(ii) The judgment and order dated 16.05.2019 passed by the Division Bench of this Court was rendered on an erroneous assumption regarding the cause of action and is therefore liable to be reviewed;

(iii) The petitioners were not guilty of delay, laches, or inaction, as they had been continuously and diligently pursuing their grievance since the year 2001, including through contempt proceedings, and the Original Application instituted in the year 2016 was within limitation;

(iv) The relief sought by the petitioners does not involve disturbance of any settled seniority position, but relates to enforcement of the binding directions issued by the Principal Bench, CAT, New Delhi in Original Application No.1215 of 2001, which have attained finality up to the Hon'ble Supreme Court;

(v) Consequently, the review application deserves to be allowed and the the judgment and order dated 16.05.2019 passed by the Division Bench of this Court is liable to be reviewed and consequently and the order dated 06.02.2019 passed by the Tribunal is liable to be set aside.

H. Final Orders:-

8. In view of the above, **this review application is allowed.** The judgment and order dated 16.05.2019 passed by the Division Bench is recalled. **Writ-A No. 7653 of 2019** stands restored and is taken up on merits. The same is **disposed of** to the extent indicated above.

8.1. The order dated 06.02.2019 passed by the Tribunal is set aside. **Original Application No.330/00624/2016 is restored to the file of the Tribunal for fresh adjudication on merits** in accordance with law and in the light of the binding directions issued in O.A. No.1215 of 2001 which have attained finality up to the Hon'ble Supreme Court.

8.2. Before parting, this Court deems it necessary to record that the petitioners are trained apprentices of the 1986–1989 batch who have been relentlessly pursuing their legitimate claim for over two decades, first before the Tribunal, then through contempt proceedings, then before the Delhi High Court, then before the Hon'ble Supreme Court, and thereafter again before the Tribunal and this Court. They have, by now, in all likelihood superannuated from service. Their dispute, which has its origins in a denial of correct seniority upon regularisation in the year 2014, has effectively been converted by the passage of time into a dispute concerning monetary benefits, i.e. arrears of pay in the appropriate grade, promotional benefits, and pension computed on the basis of correct seniority. This Court expects that the Tribunal shall be alive to this reality while adjudicating the matter.

8.3. For the purposes of the remand, it is clarified that the following facts stand conclusively established on the record and shall not be reopened before the Tribunal:

- (a) that the petitioners completed their apprenticeship training from the batch of 1986–1989 and secured higher marks than Mohd. Niyaz in the trade test;
- (b) that by order dated 03.06.2002 passed in O.A. No.1215 of 2001, the Tribunal directed that seniority of trained apprentices be fixed according to merit and batch; and
- (c) that the said directions attained finality up to the Hon'ble Supreme Court.

The Tribunal shall proceed on the basis of the aforesaid undisputed facts and confine its adjudication to the question of consequential relief admissible to the petitioners in accordance with law.

8.4. The Tribunal shall decide Original Application No.330/00624/2016 expeditiously, preferably within three months from the date a certified copy of this order is produced before it. **No observation made in the judgment and order dated 16.05.2019 passed by the Division Bench and the order dated 06.02.2019 passed by the Tribunal shall influence the fresh consideration.**

8.5. No order as to costs.

(Prakash Padia,J.) (Mahesh Chandra Tripathi,J.)

May 21, 2026
NLY