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CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH, NEW DELHI

R.A. No. 245 of 1994 in  
OA No. 796 of 1994

Hon'ble Mr. J.P. Sharma, Member (J)  
Hon'ble Mr. B.K. Singh, Member (A)

Director-General,  
Council of Scientific & Industrial Research,  
Anusandhan Bhavan, Rafi Marg,  
New Delhi-1

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Applicant

By Advocate: V.K. Rao

VERSUS

Balbir Singh Yadav,  
G-30, N.P.L. Colony,  
New Delhi.

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Respondent

By Advocate: None

O R D E R (By circulation)

Hon'ble Mr. B.K. Singh, M(A)

This Review Application, under Section 23 of the CAT Act, 1985, has been filed against the judgment and order dated 7.6.1994 in the O.A. No.796/94.

2. The <sup>original</sup> application was allowed because it was fully established that it was a case of clear discrimination so far as the applicant in the OA and respondent in the present RA is concerned. True, that the case of the applicant was not approved by the D.G. of CSIR and the Joint Secretary (Admn.) sent a d.o. letter saying that new criterion for induction into technical side was before the Governing Body and as such it was not possible to approve the case of the applicant. Neither in the OA nor during the course of the arguments nor in the review application it has been controverted that the old scheme was in force only till 31.3.1992 and there was no further extension of this scheme. It is not understood as to how the benefit of this scheme was allowed to two other persons, Shri T.D. Joshi and C.P. Gaur on 28.8.1992 and 24.8.92 when the said scheme had ceased to operate. The same yardstick should have been applied to them also as was applied to the

applicant in the OA. It was only on the basis of Article 14 of the Constitution that the decision was set aside since the Court felt that it was a clear case of discrimination. The Court did not doubt the competence of the Governing Body to revise the rules and also to apply it retrospectively but there should have been clear stipulation in the rules itself. If S/Shri TD Joshi and CP Gaur could be inducted according to the old scheme which was not in operation, the Court rightly decided that the applicant in the OA should have also been given the benefit of the old scheme.

3. Change of an existing policy should be based on a sense of empathy, justice and equality. In a welfare state like ours, our judgment should be uniformly consistent and not discriminatory. The ethics of the service is an integral part of the principles of administration and it has to be reflected in the behaviour of those who are administering a department or a ministry. The decision has to be bonafide and in conformity with the rules and there should be a unanimity in respect of all. Article 14 gets attracted only when similarly situated persons are not being treated similarly in privileges and benefits which are being conferred on two persons quoted above and denied to the third on the basis of the same rules which had ceased to operate. Article 14 of the Constitution lays down that there should be no discrimination between one person and another if their positions are substantially the same. The law can make and set apart a class according to the needs and exigencies of the services but the classification has to be based on <sup>a</sup> rational basis and it should not be arbitrary, artificial or evasive. Art 14 of the Constitution eschews all forms of arbitrariness and discrimination. Art. 14 is not identical to the doctrine of classification. In case of E.P. Rayappa vs. State of Tamil Nadu, AIR (1974) SC 455, it was held that the basic

principle which informs both the Articles 14 and 16 is equality and inhibition against discrimination. Equality before law is antithetic to arbitrariness. The action of the respondents in the OA was found violative of Article 14 and 16 and accordingly it was struck down and the application was allowed.

4. A review application can be entertained only under Order 47 Rule 1 of the CPC read with Section 114 and it lies (i) when there is a discovery of a new and important matter or evidence which after exercise of due diligence was not within the knowledge of the applicant or the respondent at the time of the hearing of the OA; (ii) on account of some mistake or error apparent on the face of the record without any effort needed to establish it; and (iii) on account of any other sufficient and reasonable cause analogous to (i) and (ii) above. A review application can also be entertained from a third party which was a necessary party but was not impleaded as such in the OA and is adversely affected by the judgment and order of the OA.

5. A review application cannot be permitted for advancement of new arguments or for fresh hearing. A review application, thus, is maintainable only when it falls within the four corners of the Order 47 Rule 1 or Section 114, CPC. This review application does not fall within the four corners of the said order and Rule. Order 47, Rule 4(i) lays down that if there is no sufficient ground for review the application shall be rejected. We

do not find any factual or legal error apparent on the face of record nor do we find any other substantial or reasonable cause to warrant the review of order and judgment dated 7.6.1994 delivered in the Original Application No.796/94 and accordingly this Review Application is rejected by circulation.

( B.K. Singh )  
Member (A)

*Done on*  
( J.P. Sharma )  
Member (J)

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