

CENTRAL ADMINISTRATIVE TRIBUNAL PRINCIPAL BENCH  
NEW DELHI.

RA No. 381 of 1994.  
OA No. 1070 of 1994.

New Delhi, this the 21<sup>st</sup> day of November, 1994.

HON'BLE MR JUSTICE S.K.DHAON, VICE CHAIRMAN  
HON'BLE MR B.N.DHONDIYAL, MEMBER(A)

vs

1. The Union of India,  
through the Secretary,  
Ministry of Urban Development  
Nirman Bhawan,  
New Delhi.
2. The Director General Works,  
C.P.W.D.,  
Nirman Bhawan, New Delhi. .... Respondents

ORDER (By circulation)

(delivered by Hon'ble Mr B.N.Dhundiyal, Member(A))

This review application has been filed by applicant No.3 Shri Charat Kumar, Sectional Officer(Horticulture) CPWD, seeking re-call of our order dated 1.09.1994 dismissing OA No.1070/94.

2. It is contended by the review applicant that the above order contains an error apparent on the face of the record as paras 1 and 2 of the letter dated 10.7.1990 have not been taken into account. A subsequent communication dated 08.02.1991 enjoining on the appointing authorities that the instructions contained in the letter of 10th July, 1990 relating to the filling up of the

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vacancies reserved for SC/ST falling in the promotion quota should be kept in view before D.P.C. proposals are sent to the U.P.S.C. was also ignored.

3. Para 1 of the O.M. dated 19.12.1978 relates to dereservation of posts. In para 2, it is specified that whenever back-log is still persisting due to non-availability of candidates belonging to Scheduled Castes and Scheduled Tribes in the feeder cadres, direct recruitment should be arranged to fill up the reserved vacancies. Para 3 stipulates as to how this decision should be implemented. It is wrong to say that the O.M. dated 10.7.1990 was not considered by this Tribunal as a whole. The Tribunal had noted that no rejoinder had been filed by the applicants and that in view of this fact, the averments made by the respondents had to be taken as correct. In the counter filed by the respondents, it had been emphasised that dereservation had been done by the competent authority. No doubt, the competent authority must have considered all the factors including whether there was a substantial back-log in the quota/<sup>of</sup> reserved vacancies or the vacancy had to be filled up immediately. It was rightly concluded that there was no conflict between the two O.M.s relied on by the applicant and that the power to dereserve was independent of the O.M., on which reliance has been placed by the applicant. Even para 3.1 of the O.M. dated 8.2.1991 mentioned in the review petition, only enjoins upon the authorities to keep the provisions of the O.M. dated 10.7.1990 in view before the D.P.C. proposals are sent to the UPSC.

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By implication, it does not preclude dereservation of the vacancies. No circular has been brought to our notice superseding the O.M. dated 19.12.1978 relating to the dereservation of such vacancies.

4. In view of these considerations, we do not find that our order dated 1.9.1994, suffers from an error apparent on the face of record and the review petition is therefore dismissed.

/sds/

*B.N.Dh*  
(B.N.Dhoudiyal)  
Member(A)

*Sy*  
( S.K.Dhaon )  
Vice Chairman.