

CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL SECRETARY

RA No. 3 of 1997 & MA 35/1997 In
O. A. No. 385 of 1996

NEW DELHI THIS THE 24TH DAY OF JANUARY, 1997

HON'BLE MR. A. V. HARIDASAN, VICE-CHAIRMAN (J)
HON'BLE MR. K. MUTHUKUMAR, MEMBER (A)

Shri Shankar Lal
S/o Shri Parshadi Lal
R/o No. 88, Radhyshyam, Park,
Parvana Road,
Delhi-110 051.

...Original applicant/
respondent in the RA

VERSUS

1. Lt. Governor of Delhi through
The Chief Secretary,
Govt. of NCT of Delhi,
5, Sham Nath Marg,
Delhi-110 054.
2. The Secretary (Services),
Govt. of NCT of Delhi,
5, Sham Nath Marg,
Delhi-110 054.
3. Joint Secretary (Services),
Govt. of NCT of Delhi,
5, Sham Nath Marg,
Delhi-110 054.
4. The Director (Education),
Education Department,
Government of NCT of Delhi,
Old Secretariat,
Delhi.

... Respondents in the
OA/petitioners in the RA

ORDER BY CIRCULATION

We have seen the Review Application moved by the
respondents in the O.A. The Review Application is
misconceived. The review petitioners have pointed out
that the order passed in the O.A. allowing consequential
monetary benefits to the applicant on his promotion to
the Grade-I with effect from 28.12.1992 is erroneous

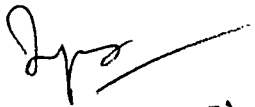
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inasmuch as under FR 17(1) where an officer begins to draw his pay and allowances of the post ^{only} when he actually works or assumes the duty. Besides on the revision of the seniority list which was finalised in December, 1989, many individuals got promotions because of the change in the seniority list but they were all given notional promotion and no benefits of pay and allowances under FR 17(1) were allowed and allowing the monetary benefits as a result of the aforesaid order, would open a Pandora's box in violation of the provisions of FR 17(1). The aforesaid plea was not taken in the counter-reply of the respondents in the O.A. It was admitted by the respondents that the applicant was assigned seniority in Grade-III w.e.f. 12.7.1967 and the process was initiated to regularise him in the post of Grade-II w.e.f. 5.9.1981 after issue of necessary corrigendum dated 15.2.1995 assigning the revised seniority position in Grade-II. However, the applicant was already working as ad hoc Grade-II w.e.f. 5.9.1981. The regularisation of applicant in Grade-II and his further promotion to Grade-I was not proceeded with as the applicant was facing disciplinary proceeding, which was pending. As it was an admitted position that either on 5.8.1981 or on 28.12.1990 when the applicant's case for regularisation in Grade-II and his further promotion to Grade-I, no disciplinary proceeding was pending against him and the disciplinary proceeding also related to misconduct ⁱⁿ for the year 1993, accordingly in the aforesaid O.A. direction was issued to the respondents to have the applicant's case considered for regularisation in Grade-II and for promotion in Grade-I.

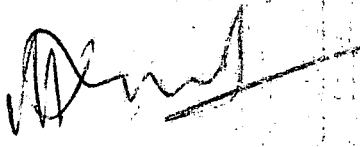
with effect from the relevant dates on which date his juniors were appointed on regular basis, and if he is not found unsuitable, to promote him and issue orders regarding his regularisation/promotion and to pay him all consequential monetary benefits within a period of 2 months and after which pensionary benefits were also directed to be refixed within a period of one month thereafter.

2. In the Review Application it has been pointed out that the seniority list was finalised in 1981 and many individuals got promotion because of the changed seniority and were given notional promotion and no arrears of pay and allowances were given. There is no such averment in the counter-reply nor was it raised during the hearing. The review petitioners cannot seek to raise a fresh plea in the Review Application for which remedy lies elsewhere and not in the Review Application. On the basis of the pleas and averments made in the Original Application, the above direction had been given in the aforesaid O. A. and we do not find any error or omission on the face of the record.

3. In the light of the above, the Review Application lacks merit and is accordingly rejected.


(K. MUTHUKUMAR)
MEMBER (A)

RKS


(A. V. HARIDASAN)
VICE CHAIRMAN