

Central Administrative Tribunal

Principal Bench

R.A. No. 280/2000 IN
O.A. No. 913 of 2000

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New Delhi, dated this the 29th November, 2000

HON'BLE MR. S.R. ADIGE, VICE CHAIRMAN (A)
HON'BLE MR. KULDIP SINGH, MEMBER (J)

Shri J.L. Khushu,
S/o Shri S.L. Khushu,
R/o D-II/2779, Netaji Nagar,
New Delhi. .. Applicant

Versus

Union of India & Others .. Respondents

ORDER (By Circulation)

MR. S.R. ADIGE, VC (A)

Persused the R.A. No. 280/2000 along with
M.A. No. 2137/2000 seeking review of the Tribunal's
order dated 24.8.2000 dismissing O.A. No. 913/2000
after hearing.

2. In O.A. No. 913/2000 applicant had
sought a permanent injunction to respondents against
overt or covert interference with applicant's regular
promotion as Chief Engineer (Civil) vide order dated
24.7.96 (Annexure A-1 of O.A.).

3. In the grounds taken in that O.A. it was
averred that applicant's regular promotion as C.E.
(Civil) vide order dated 24.7.96 had been scrutinised
by the Tribunal in O.A. No. 854/96 and O.A. No.
1219/98 and express direction had been issued to
respondents not to interfere with order dated 24.7.96
while allowing O.A. No. 1219/98 by order dated
1.12.98. It was further urged that without prejudice
to that ground Government was prohibited from

entertaining any departmental appeal against order dated 24.7.96, and there was/is no challenge to the aforesaid order dated 24.7.96 in judicial forum, as far as applicant was aware. Hence there was no basis for interfering with order dated 24.7.96. No other ground was taken in the O.A.

4. The Tribunal in its order dated 24.8.2000 took note of its earlier order dated 24.7.96 in O.A. No. 1219/98 which itself had taken note of the earlier order in O.A. No. 854/96. Indeed this order dated 24.8.2000 followed its earlier ^{initial} order dated 30.6.2000 ~~that~~ ^{as also} its order dated 1.12.98 in O.A. No. 1219/98, restraining respondents from interfering with applicant's promotion order dated 24.7.96 by seeking to abolish the post of C.E. (Civil) held by him from that date (emphasis supplied), ^{which} could not be construed as a ruling regarding the correctness of applicant's seniority vis-a-vis that of others.

5. In this connection, respondents' assertions were also noted that had the vacancies been correctly calculated, applicant may not have come within the zone of consideration to be promoted as C.E. (Civil) w.e.f. 24.7.96 which they proposed to ^{cover} by holding a review DPC to ensure that no unintended benefit accrued to any one, and also none was denied what was his due.

6. After noting respondents' assertions that applicant was not being reverted from the post of C.E. (Civil) pursuant to the exercise being conducted by them, the prayer in the O.A. for permanent injunction was rejected. While doing so it was held that the question whether an error had been committed in reporting of vacancies to UPSC for the post of C.E. (Civil) in 1995-96 was a question of fact which could not be adjudicated at this stage. If consequent to any review DPC applicant was adversely affected it was always open to him to agitate his grievance in accordance with law, if so advised, and if while adjudicating the same, it was found that he had been subjected to vexatious litigation he could always be compensated by award of appropriate costs. On the other hand if the vacancies had indeed not been correctly reported, the grant of any permanent injunction as prayed for by applicant might mean continuation of an unintended benefit to some and/or denied of benefit to those to whom it was due, which was not in the interest of justice.

7. Nothing contained in the R.A. persuades us to take a different view and its contents do not bring it within the scope and ambit of Section 22 (3) (f) A.T. Act read with Order 47 Rule 1 C.P.C. under which alone any order/decision of the Tribunal can be reviewed.

8. In view of what has been stated above
M.A. No. 2137/2000 for hearing of the R.A. No.
280/2000 is rejected and the R.A. is itself
dismissed.


(Kuldip Singh)

Member (J)

'gk'


(S.R. Adige)

Vice Chairman (A)

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