

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH: NEW DELHI

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R.A.NO.203/94 in

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O.A.No.225/93

New Delhi, this the 10th day of March, 1995

Hon'ble Shri J.P. Sharma, Member(J)

Hon'ble Shri B.K. Singh, Member(A)

1. Union of India
through
The Secretary,
Govt. of India,
Ministry of Information & Broadcasting,
Shastri Bhavan, New Delhi.

2. Chief Engineer,
Level I, Civil Construction Wing,
Directorate General,
All India Radio, PTI Building,
Parliament Street,
New Delhi.

3. Shri C.P. Sharma,
Asstt. Engineer,
Civil Construction Wing,
Directorate General,
All India Radio, PTI Building,
Parliament Street,
New Delhi.

... Applicant

Vs.

By Advocate: Shri Jog Singh

Vs.

Shri Joginder Singh,
s/o Shri Rishi Chand,
r/o Mohalla Mehlo,
Village Madaupur Khader,
P.O. Badarpur,
New Delhi.

... Respondent

By Advocate: Shri T.C. Aggarwal

ORDER

Hon'ble Shri J.P. Sharma, Member(J)

Union of India has filed this Review application
for reviewing the judgement in O.A.No.225/93 dated 5.1.94.

Alongwith this Review petition, M.A.1564/94 has also been

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moved for condoning the delay in filing this Review application. This M.A. is supported by an affidavit of Executive Engineer.

2. A notice of the Review application was issued to the original applicant and Shri T.C. Aggarwal appeared for the original applicant. The original applicant has also raised preliminary objections that the Review application is barred by limitation. On merits it is also stated that the Review applicant wants to re-open the whole case on merits which is not permissible in view of the authority of A. S. Ishi V. Union of India & Ors reported in 1993(1) ATJ 391 and in the case of B. Kumar V. Asstt. Supdt., Post Offices (1991)16 ATC 682. There is no valid ground for reviewing the judgement as averred in the Review application.

3. Since we have entertained the Review application, the delay in filing the same is condoned and the Review application is heard on merit. In O.A.225/93 by the judgement dated 5.1.94, which is under review, the order dated 9.4.92 was set aside with direction to the respondents to re-instate the applicant within two months from the date of communication of the order on the post of Driver reserving their rights to proceed against the applicant departmentally in view of the directions issued in the earlier O.A.No.596/91 by the judgement dated 4.12.92.

4. In the earlier O.A. filed by the present opposite party i.e. Shri Jogender Singh, the original applicant in O.A.596/91, M.A. 1185/92 was moved. A direction was issued that the applicant is at liberty to assail the decision of the respondents by filing separate application, if so advised. In the O.A. 596/91 filed by the applicant

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which was disposed by the judgement dated 24.1.92, the Tribunal quashed the impugned order of termination dated 7.9.90 with directions to the respondents to reinstate the applicant in service within a period of 2 months from the date of communication of this order. No payment of back wages was ordered and liberty was given to the respondents to take action against the applicant in accordance with law, in respect of any specific misconduct after complying with the principles of natural justice, including issue of a show cause notice and giving an opportunity of personal hearing.

5. In the above background that the subsequent O.A. i.e. O.A.No.225/93 was disposed of, we have gone through the grounds taken in the review in paras A, B and C of the grounds. None of these grounds are in accordance with the provisions of Order XLVII, Rule 1 C.P.C. and these only state certain facts which are not at all relevant for reviewing the aforesaid judgement for which review is sought. Grounds A, B and C are quoted below:-

A. The impugned order is very much legal and has been passed after giving considerable thought and after considering the performance and creditability of the applicant. It is very much evident from the order under challenge that the answering respondents have given ample opportunity to the applicant for regularisation but he failed.

It is further submitted that the answering respondents have complied with and honoured the judgement/order dated 24.1.92 in O.A.No.596/91.

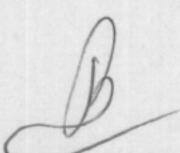
B. The case of the applicant was considered and dealt with by a duly constituted DPC (Selection Committee). Furthermore, the answering respondents have exercised their administrative and executive powers in most judicious and justifiable manner, within the four corners of the prescribed limits. Hence, their act cannot be termed as malacious or misuse of power.

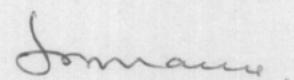
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C. That it is further submitted that at present 2 nos. of vehicles of this circle are out of order and the survey report has been submitted to the Headquarters so that 2 nos. of drivers have become surplus. It is also mentioned that Electrical Division, CCW, AIR, Jammu has been changed and vehicle has been shifted to CCW, AIR, Chandigarh.

6. A perusal of the judgement will show ^{that} all these points have already been considered in quite detail and the applicant cannot re-open the whole case. What has been undergone by the respondents is to again take pre-appointment tests of the applicant before re-instating him in service, as held in the decision of Hon'ble Supreme Court in Civil Appeal No.3819/89 Shri Krishna Singh and others Vs. UOI & ors. referred to in the judgement itself, when a person is promoted to a post on regular basis, ^{-ed} his promotion cannot be again subject ^{to} scrutiny by another D.P.C.

7. We find no merit in this Review application and the same is also dismissed on merits.


 (B.K. SINGH)
 MEMBER(A)


 (J.P. SHARMA)
 MEMBER(J)

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