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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW DELHI

R.A. 71/87
O.A. No. 284
T.A. No.

1986

DATE OF DECISION 30.10.87

Shri Ram Prakash **Petitioner**

Applicant in person **Advocate for the Petitioner(s)**

Versus

Union of India and Others **Respondents**

Shri N.S. Mehta **Advocate for the Respondent(s) No. 1**

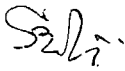
Mrs. Swarn Mahajan **Advocate for the Respondent
No. 2.**


CORAM :

The Hon'ble Mr. B. C. GADGIL, VICE CHAIRMAN

The Hon'ble Mr. S. P. MUKERJI, ADMINISTRATIVE MEMBER

1. Whether Reporters of local papers may be allowed to see the Judgement ?
2. To be referred to the Reporter or not ?
3. Whether their Lordships wish to see the fair copy of the Judgement ?


(S. P. MUKERJI)


(B. C. GADGIL)

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW DELHI

R.A. 71/87
O.A. 284/86

DATE OF DECISION : 30.10.87

Shri Ram Prakash . . . Applicant

Vs.

Union of India & others . . . Respondents

For Applicant . . . Applicant in person

For Respondent No.1 . . . Sh. N.S.Mehta, Sr.Standing
counsel

For Respondent No.2 . . . Mrs Swarn Mahajan, Advocate.

CORAM

The Hon'ble Mr. B. C. Gadgil, Vice Chairman

The Hon'ble Mr. S. P. Mukerji, Administrative Member

(Judgment of the Bench pronounced by Hon'ble
Shri S. P. Mukerji, Administrative Member)

In this Review Application the applicant has sought review of the Tribunal's Judgment delivered on 31.7.1987 in OA 284/86 in which his original application was allowed in part and the benefit of the certificate of the Planning Commission was allowed from 1.6.1981 to 24.9.1984 and not for the subsequent period till he was ^{absorbed} ~~observed~~ in the Indian Institute of Public Administration (IIPA) on 1.6.1985. The applicant's contention is that there is a factual error in para 2 of the judgment in which it was stated that "the applicant retired from service on superannuation and was ~~observed~~ absorbed in the IIPA with effect from 1.6.1985".

According to the applicant he did not retire from service on superannuation but retired voluntarily and prematurely to be absorbed in the IIPA with effect from 1.6.1985, whereas the date of retirement on superannuation would have been 31.10.1987. Having brought out this factual error the applicant in the review application has gone entirely on the merits of the case. He urged that the benefit of the certificate should have been allowed to him not up to 24.9.1984 but till 1.6.1985. He has also challenged the finding of this Tribunal that as an ad-hoc Deputy Adviser in the Planning Commission he did not have any prescriptive right to be continued on a notional basis after his deputation to the IIPA, irrespective of the fact whether a regular appointee was selected and appointed to the post vacated by him in the Planning Commission or during his period of deputation with the IIPA he did not compete for selection for regular appointments as Deputy Adviser. He has argued that the Tribunal should have extended the principle of equity for granting him the benefit of certificate for higher pay beyond 24.9.84.

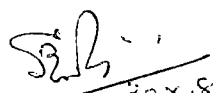
The learned counsel for the respondents, ^{that is the} Union of India and the IIPA have vehemently opposed the Review application and argued that the benefit of the erroneous certificate should not have been made available to the applicant at all and in any case beyond 28.11.1983. Mrs Swarn Mahajan the learned counsel for respondent no.2 urged that the Review Application being totally devoid of merit should be dismissed with costs, as the respondents have been subjected to frivolous litigation by the Review Application.


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2. Having given our anxious consideration to the various averments and arguments advanced by the applicant, we are not able to persuade ourselves to accept the review application. The review of a judgment ~~xx~~ has been held by the Supreme Court in Chandrakanta and another Vs. Sheik Habib, AIR 1975 (SC) 1500 to be a serious step and possible only when there is a glaring omission or mistake of fact. In Aribam Tuleswar Sharma Vs. Aribam Pishak Sharma AIR 1979 SC 1047 the Supreme Court has held that the review power can be exercised on the ground that the judgment is erroneous on merits. In the instant case the only factual error that has been brought to our notice is that the judgment indicates that the applicant retired on superannuation on 1.6.1985 instead of retired prematurely on 1.6.1985. Even if the word superannuation is omitted, we have found that not a single syllable or ^{comma} ~~comma~~ or 'full-stop' in the rest of the judgment need ~~to~~ be changed on that account. The benefit of the certificate given by the Planning Commission has nothing to do with the date of his retirement. It may be recalled that the applicant went to the IIPA on deputation on 1.6.1981, he was reverted on 28.11.1983 by the Planning Commission and the certificate was withdrawn by that order ^{by the order of 28.11.83} with effect from 1.6.1981, and two years thereafter ^{applicant} on his own request the retired from Government service to get permanently absorbed in the IIPA. The benefit of the certificate which was withdrawn on 28.11.1983 with retrospective effect from 1.6.1981, was allowed by our judgment up to 24.9.1984 when his

last extension of deputation expired. All these dates are prior to the premature retirement on 1.6.1985 or the superannuation retirement on 31.10.1987. Accordingly, the retirement as such premature or otherwise has no nexus with the relief prayed for by the applicant and partially granted by the judgment of the Tribunal. The applicant seems to have tried to derive an underivable benefit from the judgment by arguing that by the partial benefit given to him he has a case to reconsider his decision on voluntary retirement on 1.6.1985 and get the benefit of liberalised pension on the basis of the Government's decision on the Fourth Pay Commission's recommendations. This argument cannot be accepted either in law or equity much less in a review application of this nature. The applicant opted to retire voluntarily with his eyes and ears open and preferred to stay with the IIPA long after the Planning Commission had passed the impugned order on 28.11.1983 reverting him as an SRO with retrospective effect. It is too late in the day to undo the inexorable course of events and ~~there~~ ^{through} consequences by taking the plea of equity in the review application.

3. In the circumstances, we reject the Review Application ^{with the direction} that the words "on superannuation" appearing in the penultimate sentence in para 2 of the judgment dated 31.7.1987 in OA 284/86 should stand deleted. There will be no order as to costs.


(S. P. MUKERJI)
MEMBER (A)


(B. C. GADGIL)
VICE CHAIRMAN