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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI.

Regn.No. RA 109/88 in
OA 28/86

Date of decision: 30-3-1990.

Shri Wazir Chand

....Petitioner

Vs.

Union of India & Others

....Respondents

For the Petitioner

....Shri R. Venkatappa Naik
Counsel

For the Respondents

....Shri O.N. Moolri,
Counsel

CORAM:

THE HON'BLE MR. P.K. KARTHA, VICE CHAIRMAN(J)

THE HON'BLE MR. D.K. CHAKRAVORTY, ADMINISTRATIVE MEMBER

1. Whether Reporters of local papers may be allowed to see the Judgment? *yes*
2. To be referred to the Reporters or not? *No*

(The Judgment of the Bench delivered by Hon'ble
Shri P.K. Kartha, Vice Chairman(J))

The petitioner in RA 109/88 is the original applicant in OA 28/86. He has prayed for setting aside the Tribunal's judgment dated 21.7.1988 and for granting him the reliefs as had been sought in OA 28/86.

2. We have gone through the records of the case carefully and have heard the learned counsel of both parties. The prayer contained in the OA was for setting aside the impugned order of reversion of the applicant dated 16.11.1984 to the post of Chargeman Grade 'B' and for expunging the adverse entries in the confidential reports for the period between 1975-76 and 1982-83 and that the same should not be taken into account for the purpose of his promotion to higher post.

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3. As regards the prayer for expunging the adverse remarks, it has been observed in para 2 of the judgment dated 21.7.1988 that "during the course of arguments, the learned counsel of the applicant withdrew the second relief regarding expunction of adverse remarks". With regard to the relief sought against the impugned order of reversion dated 16.11.1984, the Tribunal observed in para 6 of the judgment that "being thus consistently adjudged as not fit for promotion as Chargeman Grade 'A', he cannot claim it even as a Scheduled Caste candidate for whom also fitness as such is a pre-requisite for promotion".

4. In the facts and circumstances of the case, the Tribunal did not see any merit in the application and rejected the same.

5. The petitioner has submitted that the Tribunal by mistake recorded and made the observation that his counsel withdrew the prayer regarding expunction of adverse remarks. According to him, his case for promotion depends upon the correctness of the adverse remarks and justification for the same. Thus the contention raised in the petition is that the observation made by the Tribunal regarding the withdrawal of the second limb of the relief relating to the expunction of adverse remarks has been wrongly recorded. He has argued that the Tribunal failed to examine whether the adverse remarks could be relied upon for the purpose of denying him promotion.

6. Shri B.S. Charya, the learned counsel had appeared for the petitioner when the original application was heard by the Tribunal on 30.6.1988. The present petition has been filed by Shri R. Venkatappa Naik. The petitioner has not produced any affidavit of Shri Charya to the effect that he did not submit before the Tribunal, at the time of hearing, that he did not withdraw the second relief regarding expunction of adverse remarks and that the observation made in the judgment on the matter is incorrect.

7. The scope of review is limited. The petitioner has not brought to our notice any error of law apparent on the face of the judgment. He has also not brought out any new facts warranting a review of the judgment dated 21.7.1988.

8. In the light of the above, the present petition is liable to be dismissed.

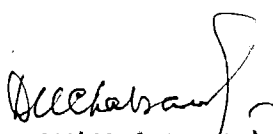
9. During the arguments on the petition, the learned counsel of the petitioner^{or} stated that the petitioner has retired from Government service on 31.3.1989. He also argued that inasmuch as, the non-promotion of the petitioner was due to the adverse remarks in the confidential reports of the petitioner for the period between 1975-76 and 1982-83 which had not been expunged, ^a the withdrawal of the second limb of the relief sought in the original application had prejudicially affected the case of the petitioner. There is some force in this contention. Nevertheless, it will not be appropriate to go into the question of expunction of adverse remarks in the present petition.

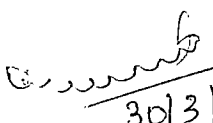
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10. Having regard to the fact that the petitioner has retired from service and that the relief sought by him will have implications only in regard to his retirement benefits, we feel that in the interest of justice, the petitioner may, if he so desires, make a representation to the respondents for reviewing the assessments and grading made in his confidential reports for the period between 1975-76 and 1982-83. He may do so within a period of one month from the date of communication of this order. In case he make such representation, the respondents shall entertain the same and give their decision on the merits within 2 months of the receipt of the representation. If in such a review, the grading in the confidential reports is changed to his advantage, the petitioner will be at liberty to file a fresh application in the Tribunal in accordance with law, if so advised.

11. The review petition is disposed of with the above observation. The parties will bear their own costs.


(D.K. CHAKRAVORTY)
MEMBER (A)
30/3/90


30/3/90
(P.K. KARTHA)
VICE CHAIRMAN (J)