

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

NEW DELHI

PA No. 10/89 in

O.A. No. 1722A/87

T.A. No.

199

DATE OF DECISION 12.10.1990.

Late Shri V.A. Gupta represented Petitioner
by the legal representatives

Smt. Kusum Gupta & Others

Advocate for the Petitioner(s)

Shri R.P. Oberoi

Versus

Union of India & Others

Respondent

Mrs. Avnish Ahlawat,

Advocate for the Respondent(s)

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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 Judgement? *Yes*
2. To be referred to the Reporter or not? *No*
3. Whether their Lordships wish to see the fair copy of the Judgement? *No*
4. Whether it needs to be circulated to other Benches of the Tribunal? *No*

JUDGMENT(of the Bench delivered by Hon'ble Mr. P.K. Kartha,
Vice Chairman(J))

The petitioner in this review petition is the original applicant in OA 1722A/87 which was disposed of by the judgment of the Tribunal dated 23.12.1988 to which one of us (P.K. Kartha) was a party. The question which arose for consideration in the main application was whether a person who is appointed by the Administrator of the Union Territory of Delhi as Additional Public Prosecutor in exercise of the powers conferred on the Administrator by Section 24(3) of the Code of Criminal Procedure is legally entitled to the scale of pay prescribed for the post of Additional Public Prosecutor in the Directorate of Prosecution of the Delhi Administration under the relevant

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rules. The Tribunal came to the conclusion that there was no merit as regards the prayer made in the main application. The application was disposed of with the directions to the respondents to fill up the posts in accordance with the rules expeditiously. The Tribunal had clearly come to the conclusion that the applicant cannot claim the pay scale of Additional Public Prosecutor merely by virtue of his appointment by the impugned notification dated 25.5.1985.

2. After going through the present petition and hearing the learned counsel of both parties, we do not see any error on the face of the judgment warranting its review. During the hearing, the learned counsel of the respondents highlighted the fact that the posts of Additional Public Prosecutors were sanctioned in 1983 and that this brought into existence the cadre of Additional Public Prosecutors. The Tribunal had observed that creation of posts by itself will not have the effect of constituting a regular cadre within the meaning of Section 24(6) of the Code of Criminal Procedure.

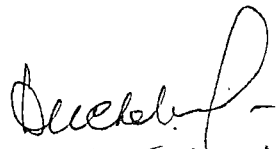
3. It may be that more than one view is possible in a case of this kind and the Tribunal has adopted one view. On that ground alone, a review petition will not lie. In case the petitioner is aggrieved by the decision of the Tribunal, the remedy is not by way of review petition

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but by way of appeal to a higher Court.

4. We see no merit in the present petition and the same is dismissed..

5. Before parting with this case, we, however, feel that the respondents should nevertheless consider the family circumstances of the deceased Government servant who had been involved in litigation with them for several years in various courts. He has left behind him a large family as will be seen from MP 586/90. In view of this, it is for the respondents to consider whether for the services rendered by the petitioner while he functioned as Additional Public Prosecutor by virtue of notification dated 25.5.1985 ~~as to whether~~ any ex-gratia amount may be paid to the legal representatives.


(D.K. CHAKRAVORTY)
MEMBER (A)

12/10/89


(P.K. KARTHA)
VICE CHAIRMAN (J)