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Central Administrative Tribunal
Principal Bench: New Delhi.

Regn.No. RA-196/89
in OA-1850/87

Date of Decision. _____

Shri Balwant Singh

... Applicant.

Vs.

Union of India

... Respondents.

CORAM: Hon'ble Mr. Justice Amitav Banerji, Chairman
Hon'ble Mr. P.S. Habeeb Mohamed, Member (Admn.)

ORDER

This is a review application filed by Shri Balwant Singh for clarifications in review of the orders of the Tribunal in OA-1850/87 disposed of on 18.10.1989. The applicant, Shri Balwant Singh has prayed for review of our ^{order} orders ^{dated} 18/10/89 for the purpose of a ^{fresh} direction to the respondents to convene a meeting of the D.P.C. to consider the case of the applicant, for promotion to the IPS Cadre as on 1st January 1972 and if selected, give him all the benefits and a further ^{fresh} direction that in case he is ^{not} selected as on 1.1.1972, then a review DPC be convened to consider his case for promotion to the IPS cadre as on 1.1.1973. The grounds given in the review application (i) that the applicant found that there has been no discussion in the judgement and order about the claim of the applicant for calling the DPC for considering his case for promotion to the IPS cadre as on 1st January, 1972 and that no directions have been given to the respondents to convene a review D.P.C. meeting to consider his case for promotion as on 1st January, 1972. It is stated that the learned counsel had argued about the said claim of the applicant and as per the applicant: "it appears that it is by oversight that the said aspect about the directions to consider the case of the applicant as on 1st January, 1972 has been left from being mentioned in the aforesaid judgement and order of this Hon'ble Tribunal." (ii) It is also stated ^{in the review application} that "the applicant has recently come to know that the statutory provisions of the IPS regulations, even the executive instructions in this regard were ignored and the case of the applicant was not considered by convening a DPC

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as on 1st January, 1972 intentionally to favour one Shri G.R. Gupta who was going to be considered eligible only as on 1st January, 1973. The applicant states that Shri G.R. Gupta had given a representation in this regard and ^{that is} ~~i.e.~~ how the mandatory provisions requiring to hold DPC every year and even the executive instructions were ignored to favour Shri G.R. Gupta.

2. A review petition may be filed for the review of the judgement for a review under Order 47(1) only in the following circumstances.

"from the discovery of new and important matter or evidence which after the exercise of due diligence, was not within his ^{power} knowledge or could not be produced by him at the time when the decree was passed or order made, or on account of some mistake or error apparent on the face of the record, or for any other sufficient reason, ~~desires to obtain a review of the decree passed or order made against him, may apply for a review of judgment to the Court which passed the decree or made the order.~~"

3. A perusal of the prayers in the original OA makes it clear that in the original OA itself the prayer for relief, inter alia, was to the effect to direct the respondents to hold a DPC as on 1.1.1972, as according to the applicant, he became eligible for promotion w.e.f. 1.1.1972 and in the alternative to call a review DPC meeting as on 1.1.1973 and promote him to the IPS Cadre from 1972 or 1973, if selected, ^{without} consequential benefits. This is not a case where a lesser relief to the one prayed for in the original application has been allowed as the prayer for relief itself has contemplated two alternatives either the promotion as on 1.1.1972 or promotion as on 1.1.1973. In fact, our judgement itself makes it clear in the beginning, the prayers made by the applicant. ~~have been detailed:~~

"Shri Balwant Singh has filed this application under Section 19 of the Administrative Tribunals Act, 1985, praying for quashing the office Memorandum dated 21.5.1987 rejecting the bonafide claim of the applicant and for a declaration that the applicant was entitled to be considered for appointment to Indian Police Service with effect from 1972/1973 with all consequential benefits, e.g. arrears of pay, allowances, seniority, promotion etc. He also prayed for directing

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the respondents to hold a Departmental Promotion Committee as on 1.1.1972 or in the alternative to call a review DPC as on 1.1.1973 and to promote him to IPS from 1972 and or 1973, if selected, with all consequential benefits."

4. After considering all the aspects of the case, the Tribunal had given him relief in terms of his prayer. The direction was issued that the respondents will convene a review DPC to consider the case of the applicant for selection in 1973 of ~~the Police Officer~~^{to} of the IPS cadre.

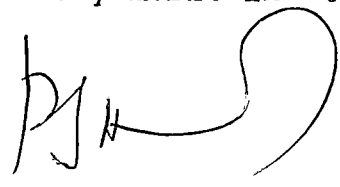
5. ^{In} a review application which can only become maintain-
able under the provisions of ~~the~~ CPC, order 47 Rule 1, new elements cannot be introduced, as the applicant has tried to do in the review application, which states that the applicant had ~~recently~~ come to know the statutory provisions of the IPS regulations and even the executive instructions in that regard were ignored and the DPC was not convened as on 1.1.1972 to favour one Shri G.R.Gupta. Of course, there is a passing reference to the learned counsel for the applicant arguing about the claim of the applicant ~~that~~^{for} consideration for promotion in the DPC meeting as on 1.1.72, but this aspect has not been considered by the Tribunal. But the review application itself makes it clear that the applicant had recently come to know ~~that~~^{but} the statutory provision of the IPS regulations or even the Executive instructions were ignored and the case of the applicant was not considered by convening the DPC as on 1.1.1972. The wording of the review application is clear enough that this ^{is} was only ^{an after thought} ~~(a reason in which)~~ after the passing of the order by us in OA-1850/87 dated 18.10.1989 and this kind of knowledge will not qualify under Order 47 Rule 1 of the CPC as " the discovery of new and important matter or evidence which after the exercise of due diligence was not within the knowledge or could not be produced by him at the time when the decree was passed or order made. Obviously, this point

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which has come to the recent knowledge of the applicant cannot.

be made the ground for a review. In fact, he has now prayed for a re-hearing of the case on the ground of relief ^{prayed for} for the convening of the DPC to consider his case for promotion as on 1.1.1972. This will not be permissible in a review applicant. ^{tion}

6. In the circumstances, I do not find any merit in the review application which is rejected.


(P.S. Habeeb Mohamed)
Member (Admn.)

I agree with the view taken by Hon'ble Shri P.S. Habeeb Mohamed, Member (Administrative) above. I would only add that the applicant himself prayed for alternative relief. He had been granted one of the reliefs he had asked for. Now he urges that he ought to have been granted the other relief. The matter was considered and the Bench has granted him the relief. No case has been made out for either a review or a clarification of the order which is clear. This Review Application fails and is rejected.


(Amitav Banerji)
Chairman
9.4.1990.