

Central Administrative Tribunal
Principal Bench: New Delhi

RA No.216/93 in
OA No.898/87

Date of Order: 9.9.1993.

Shri A.S. Kochar & Others

...Petitioners

Versus

Union of India through the
Secretary, Ministry of Defence,
Army Headquarters & Others

...Respondents

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O R D E R

This review application has been filed by petitioner No.3 Shri A.K. Jaiswal in OA-898/87 which was decided on 28.1.1993. The principal grounds adduced for seeking the review are that:-

- i) six selection grade posts were sanctioned for the unit in which the petitioner was working, keeping in view the effective strength of the unit. Further the respondents sanctioned selection grade to 4 persons only in an arbitrary manner. The withdrawal of two selection grade posts by respondent No.3 was not valid as he was not the competent authority to interfere in the matter.
- ii) The basic provisions for grant of selection grade to the employees is contained in the Ministry of Defence letter dated 19.3.1977. The said letter stipulates that the zone of consideration for granting selection grade will be drawn on the basis of local seniority. The respondents No.2 and 3, however, misinterpreted the contents of the said letter inasmuch as the administrative Ministries were given only power "to sanction time scale and not to decide any policy matter in

regard to the selection grade." Hence the action of the respondents to decide the policy for granting selection grade on local basis was illegal.

2. The scope of the review application is regulated by Order XLVII of the Code of Civil Procedure. The normal rule is that once a judgement has been rendered it cannot be modified/amended or altered. The judgement can be reviewed only if the grounds adduced for seeking the review fall under the statutory exceptions listed in Order XLVII of Code of Civil Procedure. They are:-

- i) there should be an error apparent on the face of record;
- ii) new material or documents has been discovered which was not available even after exercise of due diligence;
- iii) for any other sufficient reason.

In our opinion the grounds adduced for seeking the review are not covered by the statutory exceptions mentioned above. The petitioner on the other hand is trying to reargue his case by supplementing the arguments earlier advanced. Even on merits the petitioner has no case. It is not disputed that the selection grade was introduced by the respondents vide their letter issued in the year 1977. This fact has been duly taken note of by the Bench in the judgement. After considering all aspects brought to our notice and the material on record we had come to the conclusion that if the action taken by the respondents vide impugned order dated 19.12.1986 was consistent with the order dated 17.5.1984, the petitioners cannot make any justifiable grievance. This issue was examined at length and based on the material placed before us we reached the conclusion that the petitioners have failed to establish

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that the impugned order was made in violation of the directions contained in the order dated 17.5.1984. In that view of the matter, we are not inclined to undertake the review. The R.A. is accordingly rejected.

Dr. I. K. Rasgotra
(I. K. RASGOTRA)
MEMBER (A)

V. S. Malimath

(V. S. MALIMATH)
CHAIRMAN

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