

Central Administrative Tribunal
Principal Bench, New Delhi

Regn. No. RA- 93/88 In
DA-231/88

Date: 10-05-1989.

Shri U.S. Kaicker Petitioner

Versus

Union of India & Ors. Respondents

For the Petitioner Shri B.S. Bindra, Advocate

For the Respondents Shri R.S. Dalal, Advocate.

CORAM: Hon'ble Shri P.K. Kartha, Vice-Chairman (Judl.)
Hon'ble Shri M.M. Mathur, 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

(Judgement of the Bench delivered by Hon'ble
Shri P.K. Kartha, Vice-Chairman)

The review petition has been filed by the original applicant in DA-231/88 praying that the Tribunal's judgement dated 13.7.1988 be set aside, that the petitioner may be admitted, and that the original application may be re-opened once again for final hearing on merits.

2. The applicant in the original application had prayed that the appointment of Dr. Brijendra Singh, respondent No.3, to the post of Head of the Division of Floriculture and Landscaping, with effect from 28.1.1988, be quashed, and that the applicant be appointed to the same post. After going through the records and hearing the learned counsel for both the parties, the Tribunal had dismissed the application. The Tribunal had also occasion to see the relevant file of the respondents from which it was clear that the name of the applicant was also considered along with Dr. Brijendra Singh for appointment

as as Head of the Division. Dr. Brijendra Singh was, however, appointed to the post having regard to his better service records and overall performance.

3. The petitioner in the present petition has alleged that there are certain errors apparent on the face of the record. In this context, he has referred to the statements contained in the judgement that "the post was advertised to select a suitable candidate for appointment as the First Head of the new Division" and that "Dr. Brijendra Singh, respondent No.3, was appointed on 28.1.1988 after the term of Dr. Dehare, respondent No.4, was completed." He has further alleged that not to recognise the length of service as the main criterion for appointment as Head of the Division is an error apparent on the face of the record, that the Tribunal overlooked the requirement of the cadre rules, that the appointment of the junior was required to be made with the approval of the President of the I.C.A.R., that the mala fides alleged in the original application has been overlooked and has not been adjudicated by the Tribunal, and that the cadre rules provided that the Project Coordinator cannot hold the charge of Head of Division.

4. The respondents, in their reply to the petition, have refuted the aforesaid allegations. According to them, there are no errors on the face of the record and that the two statements from the judgement of the Tribunal referred to by the applicant as alleged errors on the face of the record, have not in any way influenced the final decision arrived at by the Tribunal.

5. We have carefully gone through the records and have heard the learned counsel for both the parties.

(Y) —

Shri Bindra, appearing for the petitioner, argued that the Tribunal has not dealt with all the points raised by the applicant in the original application and that there has been violation of the principles of natural justice.

6. To our mind, the learned counsel of the applicant is under a misconception as regards the true scope of the power of review. A review is not a routine procedure. The Tribunal cannot review its judgement unless it is satisfied that material error, manifest on the face of the order, undermines its soundness or results in miscarriage of justice. In *Sew Chandra Kanta Vs. Sheikh Habib*, A.I.R. 1975 S.C. 1500, the Supreme Court observed as follows:-

"A review of a judgement is a serious step and reluctant resort to it is proper only where a glaring omission or patent mistake or like grave error has crept in earlier by judicial fallibility..... The present stage is not a virgin ground but review of an earlier order which has the normal feature of finality".

7. The aforesaid decision was followed by the Supreme Court in *Cel. Avtar Singh Sekhon Vs. Union of India & Ors.*, A.I.R. 1980 S.C. 2041.

8. We are also not impressed by the argument of the learned counsel for the petitioner that the Tribunal is required to meet each and every point raised in the application *seriatim* in the judgement.

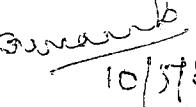
9. The power of review is not to be exercised on the ground that the decision was erroneous on merits. That would be the province of a Court of Appeal. In case the applicant is aggrieved by the decision given by the

Q/V

Tribunal, the proper remedy for him would be to prefer an appeal in the Supreme Court instead of seeking a review of the judgement.

10. We have again gone through our judgement and we are unable to see any error apparent on the face of the record warranting a review of the judgement. In the circumstances, the present petition is dismissed. The parties will bear their own costs.


(M.M. Mathur) 10/10/89
Administrative Member


10/10/89
(P.K. Kartha)
Vice-Chairman (Judl.)