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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI::::::

R.A.102/89 and Misc.Petn.1842/89

OA 100/88

Shri R.R.Goyal Applicant.
-V-
Union of India Respondents.

P R E S E N T.

THE HON'BLE SHRI JUSTICE AMITAV BANERJEE, CHAIRMAN
THE HON'BLE SHRI J.C.ROY, ADMINISTRATIVE MEMBER.

For the Applicant:- Mr.S.C.Luthra, Advocate.

For the Respondents:-

Date of Judgment:-

O R D E R

We have before us Review Application No.102/89 and Misc.Petition No.1842/89 arising out of the original application No.100/88 which was decided by us on 9.6.1989. We are on the limited question of deciding whether the applicant requires to be heard.

2. O.A.No.100/88 preferred by Shri R.R.Goyal, an officer of S.S.B. New Delhi, against denial of promotion to him was dismissed by us after hearing of the case. In the Review Application the applicant has raised the following grounds for praying for reviewing our order on the original application:-

- (i) That during the period 1982 to 1986 when the draft recruitments rules to the post of the Cipher Section of the S.S.B. were being processed one or more Senior Field Officer like the applicant was promoted.

In the judgment we stated that they were promoted according to the old recruitment rules whereas it is contended that the promotion was on the basis of the draft recruitment rules.

- (ii) That the D.P.C. which considered the applicant for promotion to the rank of Assistant Director assessed his records up to 1987. It is claimed that since the post was created in 1986 his records up to 1986 only should have been considered by the D.P.C. and
- (iii) That the said D.P.C. was not presided over by the Chairman/Member of the U.P.S.C.

In the Misc. Petition which was subsequently filed it has been alleged that the applicant is being harassed because uncomplementary remarks were recorded in his ACR for the year 1988-89 and these were communicated to the applicant on 26 July 1989.

3. Regarding ground No.(i) our view is that this is not a material point and we still hold that promotions and recruitments can be done only on the basis of a duly notified recruitment rule framed under Article 309 of the Constitution. The circumstances in which the applicant was not promoted were argued in detail before the hearing and are discussed in the judgment.

4. Regarding grounds (ii) & (iii) these again were argued in detail at the stage of hearing and were discussed in paras 11 and 12 of our judgment.

5. We are frankly unable to find any link or nexus between the alleged bias against the applicant as reflected

reflected by the adverse remarks recorded in his dossier for the year 1988-89 and the ground for the review application. At the end of the year the officer to whom the applicant reports in the course of his duties have assessed his work and conduct. He communicated the uncomplimentary remarks to the applicant as required under the rules. If he has observed certain shortcomings which have wounded the applicant's feelings, no court can conclude that the bias against the officer reported upon is proved. There are departmental remedies available to the applicant; in case he considers that the year's assessment was not done objectively, he is free to represent against these to higher officers. We therefore, dismiss the Misc. Petition as not relevant.

6. None of the ground taken can be termed either as discovery of the new evidence or mistake or error apperant on the face records. The questions were all raised and considered before the judgment and order was passed. No other new and sufficient reasons have been advanced warranting a review of the previous order. The Hon'ble Supreme Court in the case of Aribam Tuleshwar Sharma -V- Aribam Pishak Sharma and others, AIR 1989 SC 1047 clearly laid down the distinction between the power and the appellate court and the power to review a court's judgment. None of the grounds taken in the prayer of review fall within the scope for review according to Order 47 Rule 1 of the Code of Civil Procedure.

7. Moreover the judgment was delivered on 9.6.1989 and the Review application was filed on 13.7.1989 after 30 days without any explanation for the delay.

8. The application does not merit hearing. The Review Application No.102/89 alongwith Misc.Petition 1842/1988 are therefore summarily dismissed.

Jasim
Member

Abd 21/2/89
Chairman

L.M.