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BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL 24.12.91
PRINCIPAL BENCH: NEW DELHI

Present: Hon'ble Mr. Justice V.S. Malimath ... Chairman
Hon'ble Mr. S. Gurusankaran ... Member (A)

REVIEW APPLICATION NO.179/1991

IN

O.A. NO.1757/1988

Shri B.D. Sharma Applicant
V/s.

Union of India & Others Respondents

This Review Application having come up for Orders by Circulation, Hon'ble Shri S. Gurusankaran, Member (A), made the following:

O R D E R

I have gone through the Review Application. The main grounds raised by the applicant for reviewing the judgement dated 12.9.1991 are as follows:

(i) That an error apparent on the face of the judgement has crept in holding that "it is well understood that a person transferred in public interest does not loose seniority."

(ii) That another error, which has crept in the judgement in holding that the applicant has not produced any evidence to support his surmise that Shri John was transferred under the surplus/deficiencies scheme.

2. It has been observed in para 4 of the judgement that it is clear from Annexure-IV that Shri John was transferred in public interest. The transfer in public interest can be under the surplus/deficiencies scheme or on administrative

grounds. The applicant has claimed that Shri John's transfer was under the surplus/deficiencies scheme, but he has not produced any evidence to support it and Annexure-IV also does not indicate that the transfer was under the surplus/deficiencies scheme. Hence, I do not find any error apparent on the face of the records produced before the Bench.

3. The applicant has also referred to the observation of the Bench that the applicant had not impleaded Shri John as respondent. It has been stated in para 4 of the judgement that the applicant has not prayed for the relief that the orders promoting Shri John to HSG-I from 15.10.1985 should be set aside. This is because there was only one sanctioned post of HSG-I and without setting aside the promotion of Shri John, the applicant could not have been promoted to that post. The contention of the applicant that he was seeking the reliefs based on the question of law/policy cannot be accepted, because his whole case hinges on the issues as to whether Shri John was transferred under the surplus/deficiencies scheme or not, he is senior to the applicant or not and whether he was enjoying a higher grade than the applicant from 15.10.1981 or not. Thus, all the questions raised were concerning Shri John and he was a necessary party. In any case the application was not dismissed for this reason alone, but on merits.

4. The other issues raised by the applicant like his seniority vis-a-vis Shri John's seniority, Shri John drawing a higher grade from 15.10.1981 and

implementation of 3 grade structure have all been dealt with in the judgement and no new evidence has been put forth.

5. In the result, I find no merit in the Review Application and accordingly the Review Application is dismissed.

I agree
D. Melville

Hon'ble Chairman.

Gurusankaran
24/12/1991

(S. GURUSANKARAN)

24.12.1991