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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, DELHI.

R.A. No.271/92 in
C.C.P. No.250/91 in
O.A. No.1654/88.

DECIDED ON: 5th August, 1992.

O.P. Gupta Applicant.

V/s.

Shri R.K. Bhargava,
Secretary,
Ministry of Urban Dev.
and Another.

..... Respondents.

CORAM: Hon'ble Mr. Justice V.S. Malimath, Chairman.
Hon'ble Mr. P.C. Jain, Member (A).

(BY CIRCULATION)

The petitioner in C.C.P. No. 250/91 (in O.A. No.1654/88), which was disposed of by an order dated 8.4.1992, has filed this Review Application praying for review of the aforesaid order dated 8.4.1992.

2. The aforesaid O.A. No.1654/88 has been disposed of by an order dated 19.11.1990 with the direction that the case of the applicant for promotion on the basis of his service record shall be considered and if he is found fit from the date his junior has been promoted, he shall also be allowed promotion. However, if he is not found fit for promotion, he shall not be entitled to any relief. The main ground raised in this Review Application is that the consideration of the applicant for promotion as above was to be done, in accordance with the directions in the judgment dated 19.11.1990, by convening a review DPC, but the respondents had not convened such a DPC. It is accordingly contended

that the respondents did not comply with the directions in the judgment in the O.A. and as such they should have been proceeded with for committing contempt of court rather than being discharged by order passed in the C.C.P. on 8.4.1992.

3. The order dated 8.4.1992, which is sought to be reviewed, states that office order dated 7.4.1992 says that the case of the petitioner for promotion during the relevant period was considered and he was not found fit for promotion to the grade of Executive Engineer (Civil) on ad-hoc basis during the period from March, 1973 to March, 1978 during which time some of his juniors were promoted. It is also stated that he had attained the age of superannuation on 31.3.1978. As the office order dated 7.4.1992 clearly states that the case of the applicant for promotion during the relevant period had been considered and he was not found fit for promotion, the fact remains that in terms of the judgment in the O.A. he was not entitled to any promotion.


4. Another ground raised is that the office order dated 7.4.1992 cannot be treated as a document legally brought on record and that, therefore, could not be taken cognizance of by the Tribunal. We are not persuaded by this argument. A copy of this order was endorsed to the applicant and he was represented by his counsel when a copy of the same was produced by the learned counsel for the respondents. The factum of this office order has neither been denied nor the contents thereof were objected to by the learned counsel for the petitioner in the C.C.P.

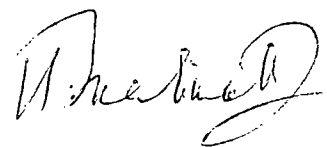
5. Another ground raised is that the case of the applicant was to be considered for promotion not for ad-hoc promotion but for a notional or proforma promotion but the office order

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dated 7.4.1992 refers to the consideration of the case of the applicant for ad-hoc promotion. The judgment dated 19.11.1990 in O.A. 1654/88 does not state the nature of the promotion for which the case of the applicant had to be considered. It is also not clear that the juniors to the applicant had been promoted during the relevant period on regular basis.

6. In the light of the foregoing discussion, we are of the view that as substantial compliance with the directions in the O.A. had been made and as the learned counsel for the respondents in the C.C.P. had expressed regret for the delay which was said to have occurred on account of the fact that the records of a very old case were required to be traced, we do not consider it a fit case for reviewing our order dated 8.4.1992 in the C.C.P. The review application is accordingly rejected by circulation.


(P. C. JAIN)
MEMBER (A)


(V. S. MALINATH)
CHAIRMAN