

(22) (1)

CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH,
NEW DELHI.

R.A.No.363 of 1993
in

Date of Decision: 7.10.93

O.A.No.92 of 1988.

I.B.SinghPetitioner.

Versus

Union of India & othersRespondents.

By Circulation:

ORDER

This is a petition dated 1.10.93 filed by Shri I.B.Singh praying for review of the judgment dated 23.8.93 passed by this Bench of the Tribunal in O.A.No.92 of 1988 'I.B.Singh Vs. Union of India' which was received by the petitioner on 7.9.93.

2. Under Order 47 Rule 1CPC, a decision/judgment/order can be reviewed only if;

- i) it suffers from an error apparent on the face of the record;
- ii) new material or evidence is discovered which was not within the knowledge of the parties or could not be produced by that party at the time the judgment was made, despite due diligence; or
- iii) For any sufficient reason construed to mean analogous reason.

3. According to the petitioner, both proviso (i) as well as proviso(ii) are satisfied. In so far as as proviso (i) viz. an error apparent on the face of the record is concerned, it is contended that the promotion of the petitioner was treated as adhoc, because the recruitment rules framed for the posts in the National Committee on Science and Technology (NCST) (1974 Rules) were not applicable as the NCST which has a separate entity was no longer in existence after 13.7.80. The petitioner states that he has come to know that the draft rules for the Group A Gazetted posts(non-Ministerial, Scientific and technical posts) had been prepared ; and he has

enclosed a cutting from the Hindustan Times dated 3.10.81 in which it has been stated that the Secretary, Department of Science and Technology had observed on 18.9.81 that the draft rules had been prepared and submitted to the Department of Personnel which were finalised and published on 3.7.84. The petitioner claims that this is a new fact discovered by him subsequent to the judgment and hence ~~xxx~~ proviso (ii) (Supra) is also satisfied. Hence, the petitioner claims that there is no justification for his being made to suffer in seniority, promotion etc. because of his service of about three years from 16.7.81 to 2.7.84 being treated as adhoc for want of Recruitment Rules during this period.

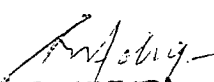
4. In our view, this is a complete misreading of the purport of the impugned judgment dated 23.8.93. It was made clear in that judgment that the order dated 18.7.81 giving adhoc promotion to the petitioner stated clearly that the promotion was on a dhoc basis and was made for a period of one year or until the post was filled-up on regular basis. It is, therefore clear that the promotion was adhoc in nature and was made as a stop-gap-arrangement pending regular recruitment to the posts in accordance with the rules. The language of the order made it clear that the adhoc promotion given to the petitioner was not in accordance with the rules, and that it would last till the regular promotion was made in accordance with the rules.

Admittedly, the petitioner was not selected by any DPC when he was promoted on adhoc basis in the year 1981. Thus, the petitioner was not covered by Principle (A) in ^{the} "Maharashtra Engineers" case, referred to in the judgment, but in fact - was hit by the corollary

✓ to Principle (A), according to which the period of

officiation on adhoc basis as a stop gap arrangement could not be taken into account for considering the petitioner's seniority. Moreover, the judgment made it clear that the Principle (B) also would not be applicable, as the petitioner had not officiated for a spell as long as 15 to 20 years. That apart, if the petitioner was hit by the corollary to Principle (A), he could not seek the support of Principle (B).

5. Under the circumstances, we are of the view that neither of the above two provisos are attracted in this case, which would warrant a review and this petition is accordingly dismissed.


(S.R. ADIGE)
MEMBER (A)


(V.S. MALIMATH)
CHAIRMAN.

ug.