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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI

R.A. No. 401/93
in
O.A. No. 680/88

Date of decision

17.11.93

1. S. Avatar Singh Grover
S/o Shri Nand Singh
25/22, Tilak Nagar,
New Delhi-110 018.
2. S. Manjit Singh
S/o Shri Ranjit Singh,
G-23, Hari Nagar, G Block,
New Delhi-58.

versus

Union of India - Through:

1. The Secretary,
Ministry of Urban Development,
Nirman Bhavan, New Delhi-11.
2. The Director General of Works,
CPWD, Nirman Bhavan, New Delhi-11.
3. The Secretary, UPSC,
Shahjahan Road, New Delhi-11.
4. Shri Govind Bhatia,
Asstt. Engineer (Electrical),
CPWD, New Delhi-11.

O_R_D_E_R

This Review Application has been filed seeking review of the Order No. 680/88 rendered on 9.9.1993 consisting of Hon'ble Shri I.K. Rasgotra, Member (A) and myself. Since Shri Rasgotra has retired from the Tribunal, the Review Application has been placed before us for consideration.

2. It may be recalled that initially the case of the review applicant was defended by Shri R.K. Kamal,

learned counsel. In the Review Application, learned counsel, Shri R.L. Sethi and Ashish Kalia appeared for the applicant.

3. The main thrust of arguments of the applicant is that the criteria adopted by the UPSC is not rational and they should have gone by the qualifications, age and the seniority of the feeder cadre persons should have been taken into consideration in order to breaking the tie in such cases. Further, he contended that in case of tie, inter-se candidates securing same marks in respect of a selection post, seniority is determined on the basis of date of birth etc. Thirdly, he contended that Tribunal ought to have given reasons and speaking order particularly when that order per se was against the establish known procedure.

4. Under O. 47 Rule 1 CPC it is a well established principle that a decision/judgement/order can be reviewed only if there is an error apparent on the face of the record or some new evidence has come to notice which was not available even after exercise of due diligence or for any other reason. The Review Application cannot be utilized for re-arguing the case transversing the same ground.

5. On perusal of the judgement, we find that at the

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request of the learned counsel for the applicant, ^{the Bench} ~~we~~
issued an emergent notice to Respondent No. 3, Secretary,
Union Public Service Commission, to produce the relevant
records as stated in their counter affidavit. Shri N.K.
Dhingra and Shri D.S. Jassal, Under Secretaries, appeared
on behalf of Respondent No. 3 and showed ^u ~~us~~ the system
adopted by them to break the tie in such cases. The
record was furnished only for the purposes of perusal
of the court only which was also the prayer of the
applicants' counsel. On perusal of the same, ^{the Bench} ~~we were~~ ^u ~~was~~
convinced that the criteria adopted by the UPSC was
found to be rational and objective which left no doubt
^u ~~in our~~ ^u ~~in our~~ minds about the criteria followed to break the
tie in such cases. There is nothing arbitrary about it.
The Bench was fully satisfied with its rationality and
objectivity. Lastly, he urged that two vacancies which
arose consequent to the resignation of the two other
persons who were recommended by the UPSC did not join
and the applicant may be placed accordingly. Since
this plea has been taken only in the rejoinder, ^u ~~we had~~ ^u ~~we had~~
^u ~~we~~ ^u ~~we~~ observed that ~~we~~ cannot go outside the pleadings.

6. Since the judgement was delivered orally in
the open court and Shri R.K. Kamal, the learned counsel
for the applicant did not raise any objection

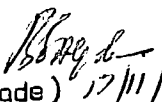
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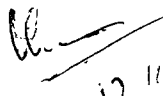
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at that point of time, there can be no error apparent on record. No new grounds have been made out in the Review Application also. Therefore, we are of the view that neither any error on the face of the record has been pointed out nor any new point has been brought to our notice calling for a review of the judgement.

7. The grounds raised in the Review Application are more germane for an appeal against the judgement and not for review.

8. In the facts and circumstances of the case, we do not see any merit in the Review Application and the same is rejected ~~in circulation~~.


(B.S. Hegde) 17/11/93
Member (J)


17/11/93
(N.V. Krishnan)
Vice-Chairman