

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI.

R.A. No. 360/94.

in

O.A. No. 2418/84

New Delhi, dated this 21st day of October 1994.

HON'BLE MR. D.L. MEHTA, VICE CHAIRMAN (J)

HON'BLE MR. B.K. SINGH, MEMBER (A)

By Advocate: Shri Sant Lal & Pradeep Kumar.

VERSUS

1. The Chief Post Master General,
Delhi Circle,
Meghdoot Bhavan,
New Delhi-110 001.
2. The Senior Superintendent of Post Offices,
South West Division,
New Delhi-110 021. ... Respondents.

JUDGEMENT

This Review Application No.360/94 has been filed against the order and judgement in O.A. No.2418/89 dictated in the open court on 9th August 1994. The Senior Superintendent of Post Offices vide Memo, No. BR/18-18 dated 7.10.80 placed the ^{applicant} under suspension on the grounds of contemplated disciplinary proceedings. He was, however, reinstated on 31.10.80. He was also communicated the adverse remarks recorded in the ACR for the year 1980-81 vide letter dated 16-10-81. He was

issued another charge-sheet on 7/15.5.1981 and the same was cancelled by the Disciplinary Authority on 25.11.82. Another Charge-sheet was issued under Rule 14 of CCS (CCA) Rules, 1965 by which a departmental enquiry was also conducted. But the Inquiry Officer submitted his report on 30.9.83 declaring that the charges were not proved against him. The disciplinary authority dis-agreed with the I.O. and awarded the penalty of stoppage of next increment for six months vide Memo dated 18.8.84. In appeal, the charges were dropped, but he was warned to improve his conduct.

2. He was considered for time bound promotion in the higher scale of LSG, but he was not found fit. The applicant was granted time bound promotion with effect from 1.4.86 on the basis of the orders of the P.M.G. He wanted ante-dating of the same, but the Tribunal did not find any substantial grounds for ante-dating his time bound promotion ~~givenxxtoxxx~~ since his case had been considered in 1984-85 and he was not found suitable.

3. We have gone through the review application carefully and we considered the relief prayed for in the O.A.. It is true that he had completed 16 years of service on 6.12.84, but he was not found suitable for time bound promotion in 1984-85 and ^{as} such the Tribunal did not find any material to dis-agree with the assessment of the authorities. The ante-dating was sought with effect from 16.12.1984, the date on which he completed 16 years of service.

The Tribunal could not appreciate evidence and could not sit as an appellate court in regard to the assessment made by the DPC, which did not consider him suitable for promotion in the year 1984-85 and that is why he was allowed promotion from 1.4.86 under the time bound scheme. This order also was issued on 26.7.88 giving him the benefit of promotion from 1.4.86.

4. The cause of action had arisen with effect from 6.10.84, when he was denied the promotion or at the most when he was not found suitable for time bound promotion, as a result of the DPC in 1984-85 and he could have filed a representation. The maximum period allowed for waiting for a reply is only 6 months. He could have come up to the Tribunal some time in 1987, but the application was filed on 4.12.89. The statutory is time limit prescribed under Section 21 of the CAT Act 1985 and the Tribunal has to consider the statutory period of limitation before taking up the matter for adjudication. The application was dismissed on the grounds of delay and laches and also on merits.

5. A review application can be entertained under Section 114 of the CPC read with Order 47 Rule 1. There are definite parameters laid down for entertaining review application. Order 47, Rule 1 lays down that a review application may be entertained in case the review applicant shows that:-

i, he has discovered a new and important matter or evidence which after the exercise of due diligence was not within his knowledge and could not be produced by him at the time when the order was made;

ii) on account of some mistake or error factual or legal on the face of the record without any elaborate argument needed to establish the same; or

iii) any other sufficient reasons analogous to those specified in Section 114 or Order 47 Rule 1.

6. This review application does not come within the four corners of Order 47, Rule 1 or under Section 114. The review is not maintainable for advancement of fresh arguments but it is only for correction of a patent error of fact or law. A plea not taken in the O.A. cannot be raised in the R.A. Since we do not find any ground for maintaining this Review Application, the same is rejected summarily under Order 47, Rule 4(1).


(B.K. SINGH)
MEMBER (A)

I agree


(K.L. MEHTA)
VICE CHAIRMAN (J)

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