

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH: NEW DELHI

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RA. No. 279 of 1994

in

OA. No. 2060 of 1989

Dated New Delhi, this 15th day of September, 1994.

Hon'ble Mr Justice S. K. Dhaon, Acting Chairman
Hon'ble Mr B. K. Singh, Member(A)

Shri Krishna Deo Poddar
C/o Shri Uma Kant Poddar
C-201, Albert Square
Gole Market

NEW DELHI

... Review
Applicant

By Advocate: Shri I. C. Sudhir

VERSUS

Union of India through

1. Ministry of Communication
Department of Posts
Government of India
NEW DELHI

2. The Director General
Department of Posts
Dak Tar Bhawan
NEW DELHI

3. The Chief Postmaster General
Delhi Circle, Department of Posts
Mohan Singh Place
NEW DELHI

4. The Accounts Officer
Central Pairing Office
Delhi Circle, Department of Posts
Bhai Veer Singh Marg
NEW DELHI

... Respondents

ORDER

(BY CIRCULATION)

Mr B. K. Singh, M(A)

This Review Application has been filed against the order and judgement dated 15.7.94 whereby the respondents were directed to regularise the services of the applicant

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in conformity with the scheme framed by them. It was further directed that if the vacancy was not available, a supernumerary post should be created to accommodate the applicant and this post should stand abolished once a regular vacancy occurs in the cadre.

2. A Review Application lies under Order 47 Rule 1 of the CPC or Section 114 of the same code. It lays down that a Review Petition can be entertained when either of the parties seeking the review shows that:

- (i) it has discovered a new and important matter or evidence which, after the exercise of due diligence, was not within the knowledge of the applicant or could not be produced by him at the time of final hearing or when the order was made; or
- (ii) on account of some mistake or error apparent on the face of the record; or
- (iii) for any other sufficient and reasonable cause analogous to the provisions laid down under Order 47 Rule 1 or under Section 114 of the CPC.


A Review Application can also be filed by a third party which was a necessary party and which was not impleaded as such when the case was finally heard and the order and judgement has gone against him and he is adversely affected by that order.

3. A Review Application is maintainable only if it comes within the four corners of Order 47 Rule 1 or Section 114 of the CPC.

4. A review is not for hearing of fresh arguments or for correction of an allegedly erroneous view taken. It is only for correction of a patent error of fact or law. A plea not taken in the OA cannot be taken in the RA.
5. This Review Application is ^{for} modifying the operative part of the judgement giving the benefit of regularisation to the applicant from the date any of his juniors were regularised as a casual labour. Firstly, these alleged juniors have not been named nor their dates of regularisation have been cited by the applicant nor they have been made parties before us. If the applicant is seeking regularisation from that date, he should have made them also necessary parties in the OA so that they could get a chance to submit their counter replies. This scheme was framed much later consequent upon the judgement of the Hon'ble Supreme Court of 27.10.87 to frame a scheme for regularisation of those who had worked for more than a year ^{continuously} as a casual worker or peace-rated worker. There was an eligibility criteria for regularisation and it is not known whether the applicant fulfilled the eligibility criteria vis-a-vis alleged six juniors who are reported to have been regularised earlier than him. It is also not known whether his case was duly sponsored by the Employment Exchange or not. He has only shown the Employment Exchange Registration No. in the OA. It is also not known whether he has passed the VIIIth standard. Therefore, the prayer made in the Review Application

is untenable. This Review Application does not fall within the four corners of Order 47 Rule 1 and as such it is rejected by circulation since there is no sufficient ground for a review. If one goes strictly, the application could have been rejected on account of non-joinder of necessary parties which was not done because the learned counsel for the respondents, Shri M. K. Gupta fairly conceded that because of the length of service, he deserves regularisation. It was also not known whether a vacancy is available or not and this Tribunal is not competent to get a shadow post created when it is not known whether the applicant was eligible otherwise or not, and there should have been a clear averment of the dates when his juniors were regularised and they should have also been made necessary parties. In the absence of these facts, the regularisation has to be made prospectively if need be even by creating a supernumerary post and getting the same abolished when a regular vacancy occurs.

6. The Review Application is dismissed by circulation.


(B. K. Singh)
Member(A)


(S. K. Dhaon)
Acting Chairman

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