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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI

R.A.No.123/94 in O.A.No.253/89

New Delhi, this day 10th of August, 1994.

Hon'ble Shri S.K.Dhaon, Acting Chairman (J)

Hon'ble Shri P.T.Thiruvengadam, Member (A)

Shri D.R.S.Yadav
s/o Shri Parshadi Singh Yadav,
H.No.B-31, Gali No.2,
West Chander Nagar, Delhi-51
(By Shri R.P.Oberoi, Advocate)

..Applicant.

Vs.

Union of India: through

1. Secretary,
Ministry of Human
Resource Development &
Department of Culture,
Shastri Bhawan, New Delhi

2. Director General,
Archaeological Survey of India,
Janpath, New Delhi.

..Respondents.

By circulation

ORDER

Hon'ble Shri P.T.Thiruvengadam, Member (A).

This Review Application has been filed for considering the order passed on 4-3-1994 in O.A.No.253/89.

2. The following issues have been specifically raised:

(i) General principles of seniority as laid down in O.M.No.30/44/48-Appts dated 22-6-1949 issued by the Ministry of Home Affairs were being followed in Archaeological Survey of India till 1-1-1977¹⁹⁷⁷, only after which revised instructions issued in 1959 were adopted.

(ii) One Shri S.Mohd. Vali had been given the benefit of war/military service rendered by him from 16-9-43 to 4-10-53 on his re-deployment in the same Archaeological Survey of India organisation.

3. As regards the first issue, the respondents have already averred in para 4.20 of their reply that the seniority

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of the applicant has been correctly fixed under the 1949 principles. It is also relevant to note that the provisions in the Office Memorandum No.4252/56-CS(C) dated 18-7-56 issued by the Ministry of Home Affairs, New Delhi and Office Memorandum No.11/15/72-Estt(D) dated 28-6-72 issued by the Department of Personnel, New Delhi have a direct impact with regard to counting of military service. The extent of applicability of these Office Memorandums has already been discussed in the order passed on 4-3-1994.

4. As regards the second issue with regard to S.Mod.Vali, reference was made in the order passed in the O.A. to the statement made by the respondents in para 4.19 that the case of Shri S.Mohd.Vali was not on all fours with that of the applicant. In the rejoinder filed by the applicant it has been stated that the denial statements of the respondents are incorrect and misleading. Apart from this, ^{it} no stage ^{any} ~~has~~ ^{has} been placed to bring out the identical situation ^{between} the applicant and S.Mohd.Vali, as repeatedly claimed.

5. There are some other issues raised in the Review Application but these have already been considered at the time of disposal of the O.A.

6. In AIR 1979 SC 1047 it has been held as under:-

"There are definite limits to the exercise of the power of review. The power of review may be exercised on the discovery of new and important matters or evidence which, after the exercise of due diligence was not within the knowledge of the person seeking the review or could not be produced by him at the time when the order was made; it may be exercised where some mistake or error apparent on the face of the record is found, it may also be exercised on any analogous ground. But it may not be exercised on the ground that the decision was erroneous on its merits. That would be the province of a court of appeal. A power of review is not to be confused

with appellate power which may enable the appellate court to correct all manner of errors committed by the Subordinate Court."

Since in this Review Application the grounds advanced do not satisfy the above requirements to invoke the power of review, this Review Application is dismissed. There will be no orders as to costs.

P.J. Thiruvengadam

(P.T.THIRUVENGADAM)
Member (A).

S.K. Dhaon
Acting (S.K.DHAON)
Chairman(J).