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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH: NEW DELHI

R.A. No. 28/1995
in
O.A. No. 1999/1990

New Delhi this the 9th Day of November 1995.

Hon'ble Shri A.V. Haridasan, Vice Chairman (J)

Hon'ble Shri R.K.Ahooja, Member (A)

Shri Kishan Singh,
son of Shri Ram Jeet,
48-A Subhash Nagar,
Bodhla, Agra-282007.

Applicant

(By Advocate: Shri Jagjit Singh)

Vs.

1. Union of India through:
Secretary,
Ministry of Defence,
South Block,
New Delhi.

The Director General,
Electrical & Mechanical Engg
(EME-Civil) Army Headquarters,
New Delhi.

The Commandant,
509 Army Base Workshop,
Agra Cantt.

Commissioner,
Schedule Caste and Schedule Tribe,
R.K. Puram,
New Delhi

Respondents

(By Advocate: Shri M.K.Gupta)

O R D E R

Hon'ble Shri A.V. Haridasan, Vice Chairman (J)

The applicant in the Original Application has filed the Review Application praying that the final order passed in the O.A dated 2.11.1994 may be recalled and reviewed. The petitioner had filed O.A. claiming promotion to the post of highly skilled Carpenter and Joiner, Grade II against SC vacancy w.e.f. 1.4.1988 when he completed 3 years service as Carpenter with consequential benefits. When the

O.A. came up for final hearing before the Division Bench on 2.11.1994 as none appeared on either side, the Bench on a consideration of the rival contention revealed in the pleadings ~~and therefore~~ found no merits in the application, ^{Case} the same was dismissed _{h.c.} without any order as to costs. The review applicant has stated that the non-appearance of the learned counsel of the petitioner in Court on 2.11.1994 was owing to the fact that he was busy in the High Court and also because he thought that the case would not be taken up on that date as the same was at Serial No. 14 in the list of Regular cases, since the practice followed in this Bench of the Tribunal was that Regular Cases upto Serial No. 10 in the Cause List alone would be taken up. However, the absence of the counsel being unintentional, the petitioner states that it is necessary that the decision taken without hearing him has to be recalled.

However, it is alleged that the case of the petitioner that his claim was not against a wastage vacancy but against a reserved vacancy has not been taken into consideration by the Tribunal in deciding the O.A., and therefore the omission to consider relevant issue being an error on the face of the record, the order dated 2.11.1994 has to be reviewed and the matter disposed of on merits after considering all the issues.

2. The respondents have filed the reply in which they contended that there has been no error

apparent on the face of the record inasmuch as all the grounds raised in the application have been considered by the Bench and that since no ground exists for review of the order passed on 2.11.1994, the Review Application may be dismissed.

3. We have heard the learned counsel on either side and have perused the pleadings in the Original Application and the order sought to be reviewed. The order passed on 2.11.1994 is not an ex-parte order but one rendered after considering the rival contention of the parties. Therefore, unless it is established that there are grounds to review the order, the decision dated 2.11.1994 cannot be recalled. Therefore, what we have to consider is whether there is any ground for review of the order. The only ground alleged in the application to show that there is an error apparent on the face of the record in the order sought to be reviewed is that while the petitioner had claimed that he should have been promoted against the vacancy reserved for SC, he was promoted only against wastage vacancy which had delayed his promotion and that this aspect of the case probably not being brought to the notice of the Bench was overlooked by the Bench while passing final order on 2.11.1994. This statement in the Review Application does not appear to be correct. A reading of paragraph 4 of the order sought to be reviewed would make it clear that the Bench has not overlooked this contention and has in

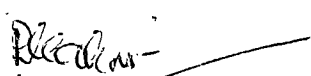
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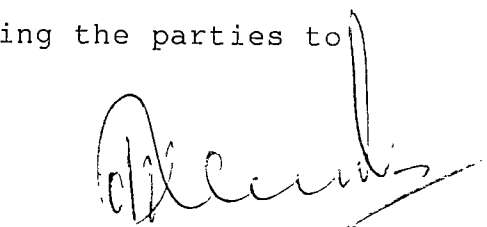
fact dealt with. ^{w.} It is worthwhile to ^{quali} abstract the relevant part of the order which reads as follows:

"In the rejoinder affidavit the applicant had not disputed the fact that he has been promoted with effect from 1.3.90. He has however assewrtd that he is entitled to be promoted against the SC vacancy and not against the wastage vacancy. The applicant could be promoted only after he completed the required period of 3 years service and passed the trade test. On 15.10.84 when, according to the applicant, the vacancy arose the applicant was not eligible for promotion as he had not completed the required 3 years of service and had not pass the trade test. Accordingly, he cannot claim promotion from a date earlier to 19.4.89. After he completes the requisite qualification he can be promoted only when vacancy arises. In our opinion no injustice has been caused to the applicant".

If the petitioner is aggrieved by this decision, the remedy open for him is to challenge the same before the Hon'ble Supreme Court in SLP. It is not open for the petitiioiner to challenge the wisdom of the finding in the Review Application.

4. Since no relevant issue raised in the pleadings has been over looked and as there is no error apparent on the face of the record ^{there any} nor is ^{nor is} other relevant circumstance warranting a review of the order, we find little merit in this R.A. and therefore we dismiss the same leaving the parties to bear their own costs.


(R.K. Ahooja)
Member (A)


(A.V. Haridasan)
Vice Chairman (J)

Mittal