

CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH: NEW DELHI

RA.No.258 of 1994

IN

OA.No.478 of 1991

(21)

Dated New Delhi, this the 4<sup>th</sup> day of August, 1994

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

Shri Zia-ud-Din  
R/o 2246, Naya Mohalla  
Gali Kasim Jan  
DELHI-6

... Review Applicant

By Advocate: Shri B. S. Charya

VERSUS

1. The Secretary (Services)  
Delhi Administration  
5, Alipur Road  
DELHI-6

2. Delhi Administration  
5, Alipur Road, Delhi  
(Through Chief Secretary)

3. The Commissioner of Industries  
Delhi Administration  
C.P.C. Building  
Kashmere Gate  
DELHI-6

... Respondents

ORDER

(By Circulation)

Shri B. K. Singh, M(A)

The reliefs prayed for in OA.478/91 were similar to the reliefs sought in OA.586/87 in which the judgement was delivered on 27.10.89.

A C.C.P. was also filed by the applicant seeking rule nisi for contempt of court against Delhi Administration for wrongly fixing seniority

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against the judgement and order rendered on  
27.10.89.

2. The Tribunal came to the decision that there was no merit in the C.C.P. and accordingly the same was dismissed and notice of contempt was discharged. The action of Delhi Administration in fixing the seniority of the applicant was deemed to be correct.

3. In OA.478/91 in which the judgement was delivered on 18.5.94, the same averments were made as were made in OA.586/87 and practically the same grounds were taken. The same reliefs were sought, namely, that the seniority of the applicant should be fixed with effect from 17.7.64 in Grade-II DASS with all consequential benefits based on the fixation of seniority.

4. There are specific rules for encadrement of an ex-cadre post in DASS. One becomes a member of the service only from the date his post is encadred and the incumbent of the post is absorbed. He ranks junior to those persons who became members of the service earlier and whose ex-cadre posts were encadred earlier.

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This principle has been followed in the case of Zia-ud-Din, the applicant and as such it would be injustice to other members of DASS if the applicant is allowed to steal a march over them when he became a member later than those whose posts were encadred earlier and who became members of DASS earlier.

This fixation of seniority is based on sound principle and cannot be treated lightly. In our judgement dated 18.5.94, we did not examine the matter on merit since the same had already been done by a coordinate Bench earlier in 1989 and clarification also was given in the C.C.P. filed by the applicant, on 26.10.90. The operative portion of the judgement in C.C.P. dated 26.10.90 has also been quoted in paragraph 4&5 of our judgement. We had found while going through the pleadings on record and also during the course of arguments by the learned counsel for the parties that OA.478/91 was barred by res judicata and the application was accordingly dismissed.

5. This Tribunal is not vested with any inherent power of review. It exercises that power under Order 47 Rule 1 of C.P.C. read with Section 114. A harmonious

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reading of Section 114 and Order 47 Rule 1 will

indicate that the Tribunal can review its decision

on the following grounds:-

- (i) Discovery of new and important matter or evidence which, after the exercise of due diligence, was not within the knowledge of the party seeking review or could not be produced by affected party at the time of hearing or when the order was made;
- (ii) On account of some mistake or error apparent on the face of record. It is only for correction of a patent error of fact or law which stares one in the face without any elaborate argument being needed to establish it; and
- (iii) For any other substantial or reasonable cause analogous to Rule 1 of Order 47.

A review can also be sought by a third party which was a necessary party but was not impleaded as such and is adversely affected by the judgement and order of the court.

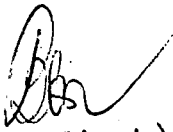
6. A review does not lie for a fresh hearing of arguments. A review application is only maintainable if it falls within the parameters indicated above.

This Review Application does not fall within the four corners of Order 47 Rule 1 or under the provisions of Section 114, C.P.C. and as such we reject the same

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by circulation under Rule 4(1) of Order 47 which  
lays down that if there is no sufficient ground  
for review, the same shall be rejected.

  
(B. K. Singh)  
Member (A)

  
(S. K. Dhaon)  
Acting Chairman

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