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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI

R.A.No. 329 of 1992
in
O.A. No. 2576 of 1991.

4/11/92

S.S. OBEROI

v/s

UNION OF INDIA & ORS.

O_R_D_E_R

This Review Application has been filed in respect of the Order dated 2nd September, 1992 in O.A. No. 2576/91. The Learned Counsel for the applicant has pointed out that the Bench has reproduced sub-paras (i) and (ii) of Para 2 of the appointment letter in respect of the applicant dated 5th October 1987 but had not considered para 1 of the said appointment letter which was crucial for the decision and it was apparent from para 1 of the appointment letter that the temporary appointment had to be extended by three years each time till the attainment of the age of 58 years unless the said temporary post was made permanent each time.

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2. Para 1 of the appointment letter dated 5th October, 1987 said that the applicant was being offered a temporary post of UDC in the pay scale of Rs. 1200-2040 on re-employment basis for a period of one year in the first instance extendable by three years each time till his attaining the age of 58 years. This para has been duly taken into account while giving the order dated 2nd September, 1992. Paras 6 and 7 of the said order would refer. The words used are - ' extendable by three years each time till his attaining the age of 58 years' and from that it does follow that the temporary appointment had necessarily to be extended by three years each time till the attainment of the age of 58 years unless the said temporary post was made permanent each time.

3. The applicant stood released on completion of his re-employment by order dated 28th October, 1991. The reference to 28th November 1991 instead of 28th October 1991 in para 3 of the order was a typographical error but that does not affect the order in any manner. In fact, in para 7 which gives the analysis of the case

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it has been correctly mentioned that the applicant was re-employed for one year in the first instance extendable by three years each time till his attaining the age of 58 years. After one year his services were extended by three years and the order clearly provided that his re-employment was from 29.10.1988 to 28.10.1991. The applicant's re-employment came to an end by efflux of time.

4. It is also not a case of retrenchment of the applicant where the question of any seniority had to play its role. The question of adverse ACRs and the disposal of the representation on adverse ACRs after the release of the applicant was also dealt with in para 8 of the order. Even the memorandum dated 23-1-1992 (Annexure X-3 of R.A.) shows that advice and warnings were issued to the applicant to remove his short-comings before recording those remarks but he failed to show improvement despite those warnings. Therefore, while some adverse remarks of the year 1990-91 were expunged the others remained. In any case as explained in para 7 of the order the foundation of the order has to be seen in order to

judge its legality or otherwise. Here, the observation of the Bench was that the release of the applicant was on account of completion of the period of re-employment. The re-employment order did say that it was extendable but the respondents ^{were} under no obligation to extend.

5. 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 cannot be exercised on the ground that the decision was erroneous on merit. That would be the province ^{of} to a court of appeal.

6. The review ^{application in} of the case is bereft of merit and is dismissed.

I. P. Gupta
(I.P. Gupta)
Member (A) 4/11/92

Hon'ble Mr. Justice Ram Pal Singh

I agree *Ram Pal Singh*
4.11.92.