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**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI**

R.A. NO.48/2006
M.A. NO.490/2006
in
O.A. NO.2530/2004

This the 23rd day of March, 2006

**HON'BLE SHRI JUSTICE B. PANIGRAHI, CHAIRMAN
HON'BLE SHRI V. K. MAJOTRA, VICE-CHAIRMAN (A)**

P.K.Mehrotra,
4004, Bank Note Press Colony,
Dewas (MP)-455001.

... Applicant

versus

1. Union of India through
Secretary, Ministry of Finance and
Company Affairs, North Block,
New Delhi-1.
2. Joint Secretary (CC&A),
Govt. of India,
Ministry of Finance and Company Affairs,
North Block,
New Delhi-110001.
3. Additional Secretary (FB, ADB and Ext.Fin),
Ministry of Finance and Company Affairs,
North Block, New Delhi.
4. Secretary,
Department of Economic Affairs,
Ministry of Finance & Company Affairs,
North Block,
New Delhi-1.
5. Shri Sumit Sinha,
Working as Deputy General Manager,
Bank Note Press, Dewas (MP).
6. Chairman,
Union Public Service Commission,
Dholpur House,
New Delhi.

... Respondents



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ORDER (IN CIRCULATION)**Hon'ble Shri V.K.Majotra, Vice-Chairman (A):**

Through this application has been sought review of Tribunal's orders dated 10.1.2006 whereby OA No.2530/2004 was dismissed being without merit. In the OA applicant had challenged his non-selection to the post of Deputy General Manager in scale Rs.14300-18300. The process of selection was initiated vide advertisement dated 12/18.4.2003. Applicant had claimed that his ACRs up to 1997-89 were graded as 'very good' and that there had been no communication to him of any adverse remarks or downgrading. Also there was no communication of any adverse remarks or downgrading relating to the ACRs for the years 1998-99 – 2001-02. Applicant's prayer for production of his ACRs for the related period was allowed and respondents had produced for perusal of the Tribunal ACRs from the year 1995-96 to the year 1999-2000.

2. It had been contended on behalf of applicant that his ACRs up to 1997-98 were graded as 'very good' and that he had not been communicated any adverse remarks from 1998-99 to 2001-02. In the review application it has been stated that as per applicant's knowledge his ACRs up to 1997-98 were rated as 'very good' and that there had been no communication to him of any adverse remarks or downgrading. It is further stated that there was no communication of adverse remarks even for the period 1998-2002. As such, applicant should have been graded as 'very good'. It is further alleged that applicant's ACRs for the years 1996-97 and 1997-98 have been tampered with and re-written and related pages replaced. It is prayed that Tribunal's orders should be recalled and ACRs for the period 1996-97 and 1997-98 should be called again to check whether ACRs are original and have been tampered with.

3. We have carefully considered the entire records of the case as also perused the Tribunal's orders whereby OA No.2530/2004 was dismissed.

Vh

4. Contention made on behalf of applicant during the course of arguments was that the issue of downgrading of ACRs should not be restricted to the period of related five years only but should be extended to a further period of five years prior to the relevant period. The learned counsel of applicant during the hearing had relied upon the following cases:

- (1) (1996) 2 SCC 363 *U.P. Jal Nigam & Ors. v Prabhat Chandra Jain & Ors.*;
- (2) Judgment dated 20.4.2005 in WP(C) 6878-6881/2005 *Union of India & Ors. v Shivendra Bhatnagar*;
- (3) CAT Full Bench Order dated 16.4.2004 in OA Nos.555/2001 & batch of cases in *Dr. A.K.Dawar & Ors. v Union of India & Ors.*; and
- (4) 2005 (9) SCALE 459 *Union of India & Ors. v Major Bahadur Singh*.


None of these judgments lay down consideration of ACRs obtained for a period of five years prior to the relevant period also. We had seen the records for the related five years and on the basis of the grading accorded by the reviewing officers found that applicant had been graded as 'good' for all the relevant five years. The DPC had found applicant unfit having failed to attain the prescribed benchmark of 'very good'. We had observed that the case law cited by the learned counsel of applicant does not relate to the proposition that the ACRs for the earlier five years than the related five years should be taken into consideration for the purpose. We had relied upon the CAT Full Bench order dated 16.4.2004 in OA No.555/2001 & batch of cases in *Dr. A.K.Dawar & Ors. v Union of India & Ors.* which had ^{been} relied upon on behalf of applicant as well, and in which after considering *U.P. Jal Nigam's* case and a host of other judgments, it was held as follows:

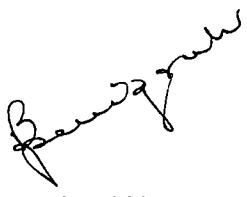
"If there is no downgrading of the concerned person in the annual Confidential Report, in that event, the grading of 'Good' given to the Government employee irrespective of the benchmark for the next promotion being 'Very Good' need not be communicated or to be treated as adverse."

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5. While no allegation of tampering of ACRs had been made on behalf of applicant in the OA as also during the course of arguments, it has been raised in the review application as an afterthought. Such a plea is impermissible. The other ground taken on behalf of applicant in the review application has already been considered and rejected in the Tribunal's orders in issue.

6. In the light of the above discussion, no error apparent on the face of record has been brought to our attention. The present petition is nothing but an attempt to re-argue the case which is beyond the ambit and scope of review. Accordingly, this review application is dismissed in circulation.


(V. K. Majotra)
Vice-Chairman (A) 23.3.06


(B. Panigrahi)
Chairman

/as/