

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

R.A. NO.70/2006

M.A. 743/2006

IN

O.A. 1751/2004

New Delhi, this the 21st day of September, 2006

HON'BLE MR. V.K. MAJOTRA, VICE CHAIRMAN (A)
HON'BLE MR. MUKESH KUMAR GUPTA, MEMBER (J)

Union of India through:

1. The Secretary,
Ministry of Urban Development &
Poverty Alleviation,
Nirman Bhawan, New Delhi-11
2. The Director General of Works,
C.P.W.D.,
Nirman Bhawan, New Delhi-11

...Review Applicants

(By Advocate: Shri H.K. Gangwani)

Versus

Shri S.S. Bansal,
Executive Engineer (Retd)-Civil,
C.P.W.D.
R/o C-134, Sector-19,
Noida-201 301 (UP)

...Review Respondent

ORDER

By Mukesh Kumar Gupta, Member (J):

By present RA, Respondents in OA seek review and recall of an oral order dated 03.08.2005 whereby while disposing of OA No.1751/2004, certain directions were issued to the following effect:-

"6. Resultantly, keeping in view the aforesaid, it becomes necessary that the claim of the applicant is considered and, therefore, it is directed that a review committee may re-consider the facts which we have recorded above and thereafter consider the claim of the applicant for the second financial upgradation under the ACP Scheme. It shall be highly appreciated if decision

is taken in this regard preferably within four months of the receipt of the certified copy of the present order. By way of abundant caution, we make it clear that nothing said herein should be taken as any expression of opinion for or against either party. O.A. is disposed of."

2. It is stated that no submissions were made with regard to the fact that second ACP was not granted to applicant on account of pending disciplinary proceedings. When the DPC met on 25.02.2000, applicant was free from vigilance angle and had been considered by the DPC and was found unfit. The charge-sheet for major penalty was issued on 25.02.2000 though on the same date when DPC met but it was issued "after the meeting of the DPC" and charge-sheet for minor penalty was issued on 01.06.2000. Aforementioned contention has been made under paras 7 & 8 of Review Application. Accordingly he was assessed 'unfit'.

3. In the MA filed for condonation of delay, various dates have been set out to indicate that the delay of 142 days in filing R.A. was neither intentional nor deliberate. Under para-2 it was pointed out that the Respondents instructed their counsel to file Review Application on 20.12.2005 and was drafted and given it to the Department for vetting and signature in second week of January, 2006. An additional affidavit was also filed by the Respondents. The present RA had been instituted on 24.02.2006.

4. We heard learned counsel for both side at length and perused the pleadings in RA, MA as well as additional affidavit.

5. A perusal of Paras 3 & 4 of order dated 03.08.2005 in specific noticed that the facts mentioned therein were "not in dispute". The

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said order had been an oral order. If certain things had not been stated / recorded or noticed wrongly, Respondents ought to have taken immediate steps to get it corrected when the matter was afresh. Moreover, we do not find sufficient explanation made or cause shown to condone the delay of 142 days. We may also note the fact that applicant has already retired on attaining the age of superannuation on 31.07.2000, as reflected under para 4.2 of the OA. The only direction issued vide aforesaid order dated 03.08.2005 was to constitute a Review Committee and reconsider the facts. Such directions are innocuous in nature and the review sought for would not make any difference to the direction issued. In the circumstances, we do not find any error apparent on the face of record or sufficient cause to condone the delay either. Accordingly MA as well as RA are dismissed.

(Mukesh Kumar Gupta)
Member (J)

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

21.9.06

/PKR/