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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

RA 175/2006
OA 2933/2004

New Delhi, this the 23rd day of February 2007

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

Shri Vidya Prakash,
Chief Parcel Supervisor,
Northern Railway Station,
Delhi.
(By Advocate: Shri Manjeet Singh Reen)

... Applicant.

VERSUS

1. The General Manager,
Northern Railway,
Headquarters Office,
Baroda House, New Delhi.
2. The Divisional Railway Manager,
Northern Railway,
State Entry Road, New Delhi.
3. Shri S.L. Meena,
Chief Parcel Supervisor,
Northern Railway Division,
New Delhi.

... Respondents.

O R D E R (ORAL)

By Shri Mukesh Kumar Gupta, Member (J)

By present RA applicant seeks review & recall of an order dated 12.09.2006 dismissing OA 2933/2004. Applicant's contention is that he was entitled to promotion retrospectively since the year 1995. Aforesaid order, passed by a Bench, in which one of us namely Member (J) had been a party, clearly noticed in Para-10 that on an earlier occasion, this Tribunal vide order dated 31.5.2000 in OA 1758/1997 had issued a direction to respondents to the limited extent i.e. "to consider and grant" benefit of upgradation / promotion "in the higher pay scale of Rs.1600-2660/-" in terms of upgradation scheme dated 27.1.1993 immediately after the date of currency of the penalties imposed upon him."(emphasis supplied).

2. It is admitted by learned counsel even today that penalty imposed upon him had expired on 01.10.1996. In the circumstances, the said order dated 12th September, 2006 had noted that applicant had been promoted to the said grade w.e.f. 01.10.96. Applicant had claimed basically promotion to the next higher grade of Rs.6500-10500/- . A specific finding was recorded by this Tribunal that the said relief was barred by the principle of constructive res judicata as well as on merit. His contention that he was promoted w.e.f. 1.3.93 & therefore his eligibility for promotion to the next higher grade was to be determined on that basis, was also rejected. It is contended that the said findings was not justified.

3. Even today, learned counsel tried to contend that applicant was promoted w.e.f. 01.03.1993, for which he placed reliance on Seniority List, placed as Annexure A-5 filed with OA besides Annexure A-1. On perusal of said Annexures we find that Annexure A-1 was communication dated 12.12.2003, vide which his request to revise the seniority list was rejected. No order has been either shown or pointed out to us even today suggesting that his date of promotion in earlier grade was 01.3.1993. Learned counsel then tried to persuade us suggesting that the issue raised in present case is covered by the judgment of Hon'ble Supreme Court reported as **2005 (4) Service Case Today 489, Rejinder Singh vs. L.G.** particularly Paras-15 & 16.

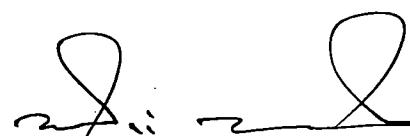
4. We have carefully perused the present RA as well as the said order besides aforesaid judgment. In our considered view the said judgment is not applicable. In the said judgment, learned counsel had been able to explain the circumstances under which certain documents were not placed on record on an earlier occasion, which were crucial. Such are not the facts in case at hand. Despite repeated query raised to learned counsel to invite our attention to an order vide which he was promoted w.e.f. 1.3.1993, learned counsel was unable

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to answer the query raised nor produced any order even today suggesting/ establishing such factual aspects. In the circumstances, we hold that applicant is basically trying to re-argue the matter, which is impermissible within the scope of Order 47, Rule 1, CPC read with Section 22(3)(f) of Administrative Tribunals Act, 1985. Accordingly finding no merits in present RA, the same is dismissed. In the circumstances, we do not impose any costs.



(V.K.Agnihotri)
Member (A)



(Mukesh Kumar Gupta)
Member (J)

kdr