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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI.

RA No.44/93 in
OA No.2777/92

Date of decision: 22.2.93

Sh.T.K.Mitra & amr.	-----	Applicants
	Vs.	
Union of India & Ors.	-----	Respondents

CORAM: - THE HON'BLE SH.P.K.KARTHA, VICE CHAIRMAN(J)
THE HON'BLE SH.B.N.DHOUNDIYAL, MEMBER (A)

ORDER

(PASSED BY HON'BLE SH.B.N.DHOUNDIYAL, MEMBER (A)
IN CIRCULATION)

This Review Application has been filed by
S/Shri T.K.Mitra and K.Shankar praying for the review
of the judgement dated 8.1.1993 of this Tribunal in
OA No.2777/92.

2. In the aforesaid OA, the applicants had
challenged selection of three of their juniors for
induction into Indian Railway Personnel Service
Junior Scale Group 'A' on the ground that they
had ^{not} completed three years' regular non-fortuitous
service in the grade of Group 'B' Gazetted post as
on 1.4.90 for 1989 vacancies. This Tribunal had held
that even though there was no specific provision for
treating the seniors as deemed to have fulfilled this
condition, if any of their juniors had become so eligible,
the respondents had rightly exercised the power of
relaxation under Rule 13 of the I.R.P.S. Recruitment
Rules, 1975 in consultation with the Union Public Service
Commission.

3. The ground for review has been given as
non consideration of the judgements of the Supreme
Court as well as this Tribunal wherein it has been

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held that if qualifications for appointment to a post in a particular cadre are prescribed, the same had to be satisfied before ^a person ^{bw} can be considered for appointment; that ^{bw} unless the rules specifically provide for it, seniors cannot be considered for promotion just because their juniors who fulfil the condition of eligibility are considered or that provision made under the existing rules cannot be faulted on legal or Constitutional grounds. This Tribunal had in fact considered these judgements and found these distinguishable as in these cases powers of relaxation in consultation with the Union Public Service Commission under Rule 13 of the I.R.P.S. Recruitment Rules, 1975, was not ^{bw} invoked. The other ground for review has been that the respondents had nowhere averred in their counter that rules were relaxed. A legal or procedural point can always be raised during final arguments and the learned counsel for the respondents had done so. They have also argued that similar relaxation was not given to one Shri Anuj Deyal, a direct recruit Group 'B' officer who was seniormost. However, this particular officer had not approached this Tribunal for ^{bw} relief.

4. In view of the aforesaid considerations, we find that there is no error ^{of law} apparent on the face of the judgement. The applicants can file an appeal in the Hon'ble Supreme Court, if they are aggrieved by it. The Review Application is, therefore, dismissed.

B. N. Dhoundiyal
(B. N. DHOUNDIYAL)
MEMBER (A)

P. K. Kartha
(P. K. KARTHA)
VICE-CHAIRMAN (J)