

(9)

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 & anr. ----- 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

held that if qualifications for appointment to a post in a particular cadre are prescribed, the same had to be satisfied before <sup>a</sup> person <sup>can</sup> be considered for appointment, that unless <sup>bw</sup> 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 invoked. <sup>bw</sup> 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 Dayal, a direct recruit Group 'B' officer who was seniormost. However, this particular officer had not approached this Tribunal for <sup>bw</sup> relief.

4. In view of the aforesaid considerations, we find that there is no error <sup>of law</sup> 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)

*anand*  
( P. K. KARTHA )  
VICE-CHAIRMAN (J)