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R.A. No.202 of 1992 in OA No.67 of 1992

Narain Singh V/s Delhi Administration and Another

This Review petition has been filed by the petitioner/applicant in OA No.67 of 1992 whose judgment was pronounced on 14.5.1992.

2. The petitioner has prayed for review of the following orders :-

"In the conspectus of the aforesaid facts of this case, the reversion order dated 31.10.88 (Annexure-3) is quashed. The applicant should be deemed to have continued as Superintendent and be taken back as Superintendent. However, since this was a case of ad-hoc appointment which did not vest any right as such, and since the applicant did not actually work against the post of Superintendent, no back wages would be admissible in regard to the higher post of Superintendent. This order does not also preclude the respondents from taking action according to law for the deficiency that they have found in his work or from proceeding against him disciplinarily for the serious allegations mentioned in the counter."

3. The grounds adduced for review are -

- (i) whenever any unlawful order is quashed the position of the sufferer is restored back with all consequential benefits. Hence the applicant should derive benefits as if there was no reversion order;
- (ii) As Superintendent the applicant has right to draw salary as Superintendent and also to annual increments;
- (iii) As long as juniors continue, the applicant has vested legal rights to the higher post, even if the appointment was ad-hoc;
- (iv) Back wages should be payable to the applicant, as he was unlawfully deprived to work as Superintendent.

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4. It would be observed from the order quoted in para 2 that it was directed that the applicant should be deemed to have continued as Superintendent and be taken back as Superintendent. Therefore, he is not discriminated against either in the matter of length of service in the post of Superintendent vis-a-vis junior ad-hoc appointees

(10)

or in the matter of annual increments. His ad-hoc promotion cannot be said to be such that his promotion was legally due and was given retrospectively to entitle him to arrears or back wages. In the facts and circumstances of the case back wages for the period the applicant did not work as Superintendent was not made admissible. The power to review is a restricted power which can be exercised on ground of discovery of new and important matters of evidence, which, after the exercise of due diligence was not within the knowledge of the party or could not be produced at the time the order was passed or on the ground that some mistake or error apparent on the face of record is available or for any other sufficient reason. The Bench cannot under cover of review arrogate to itself to decide the case over again even if the statutory grounds for review as mentioned above are not available.

5. The application is bereft of merit and ~~xx~~ the RA is dismissed.

I.P. Gupta
(I.P. Gupta)
Member (A) 29/6/92

For consideration

Hon'ble Mr. Justice R.P. Singh

Agree,
Sanjay