

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD
ADDITIONAL BENCH AT ALLAHABAD

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Allahabad : Dated this 21 day of January, 1997

Review Application No. 41 of 1996

On behalf of Prem Shanker Shukla - Review Applicant
IN

Original Application No. 1681 of 1993

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CORAM: -

Hon'ble Mr. S. Das Gupta, A. M.

Versus

Union of India & Others, Respondents

ORDER

By Hon'ble Mr. S. Das Gupta, A.M.

This application has been filed seeking review of the judgement and order dated 27-7-1996 by which OA No. 1681/1993 was allowed with certain stipulations.

2. In the aforesaid OA, the controversy was on the question of fixation of pay of the applicant on his promotion as Assistant Director in Grade IV ~~to~~ of the Indian Economic Service retrospectively w.e.f. 1-10-1990. The pay which was initially fixed was refixed downward twice and the respondents sought to recover the alleged overpayment. Since such refixation of pay and also the recovery was made without giving an opportunity to the applicant, the impugned orders were set aside. However, the respondents were granted liberty to refix his pay at the proper stage after giving the applicant an opportunity and also after giving due consideration to his reply.

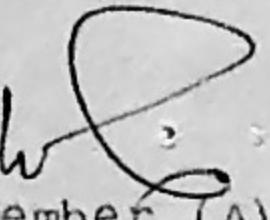
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3. The aforesaid order has been sought to be reviewed on the ground that recently a clarification has been issued by the Ministry of Finance under an Office Memo dated 23-3-1996 on the basis of which the controversy could have been finally adjudicated by the Tribunal itself. It has been stated that the impugned judgement suffers from the patent error on the face of record. A plea had been raised by the respondent to the effect that the post of Assistant Director Grade II, held by the applicant was an ex cadre ^{post}, but a decision on the controversy was not reached and the same was left undecided. This plea is wholly misconceived as leaving the controversy open, does not indicate any error apparent in the judgement which was decided on other considerations.

4. The judgement and order already rendered can be reviewed only if it is shown to suffer from any error apparent on the face of record or if any new fact is brought out warranting such review, provided such fact could not be brought out earlier despite exercising due diligence. The only fact, which is now being brought out is issuance of certain instructions by the Ministry of Finance. Apparently, the aforesaid instruction was not in existence at the time the controversy was decided. The decision already rendered cannot, therefore, be reviewed on the basis of such instruction. On the other hand, the applicant has already been given an opportunity to defend his case in case the respondents seeking refixation of his pay. It would be appropriate for the applicant to cite any instructions which may have been issued by the Ministry of Finance and which is in his favour, while submitting representations against any show cause notice.

W.L.

5. This review application has no merit and is accordingly dismissed.



W. J. Dube
Member (A)

Dube/