

RESERVED

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH
ALLAHABAD.

Dated : This the 7th day of November 2007

Review Application No. 56 of 2005

IN

Original Application No. 1109 of 2001

Hon'ble Mr. P.K. Chatterji, Member (A)

A.P. Srivastava, S/o late Jadunath Prasad, (Retired Assistant Personnel Officer, N. Railway, Allahabad), R/o 165/7, Azad Nagar, South Malaka, Allahabad.

. . . . Applicant

By Adv: Sri S.K. Om

V E R S U S

1. The Union of India through General Manager, Northern Railway, Baroda House, New Delhi.
2. The General Manager, Northern Railway, Baroda House, New Delhi.
3. The Divisional Railway Manager, Northern Railway, Allahabad Division, Allahabad.

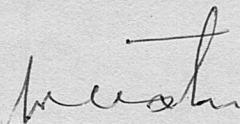
. . . . Respondents

By Adv: Smt. Sikha Singh

O R D E R

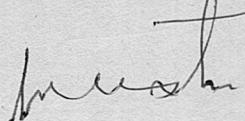
The present review application has been filed by the applicant in OA 1109/01. As I have to refer from time to time to various parts of the decision, it would be relevant to quote the important paragraphs in the judgment. They are as follows:

"7. On the question of the acquitting of the P.G. Diploma in Personal Management from Dr. B.C. Roy College of Education, Calcutta, the applicant's counsel has stated that what was important was the passing of the recognized examination. He has further submitted and stated that none of the three circulars (PS



Nos. 10152, 10220 and 3552) nowhere provides that the institute should be recognized as per records of the UGC or AICTE. He has also argued that the Railway Board letter No. E(NG)/1-86/PM4/9 dated 18.11.92 (Annexure -1 to the SR) has provided that the degree of P.G. Diploma in Personal Management of recognized institution will be equivalent to LLB with Labour Laws. In vide of these arguments he submits that the AOA may be allowed and the respondents be directed to grant him the relief prayed for by the applicant in this connection.

8. Sri A.K. Gaur, counsel for the respondents, on the other hand, has rebutted the contention of the applicant's counsel and has submitted that the PG Diploma in personal Management obtained by the applicant by Dr. B.C. Roy College of Education is not an institution which has the recognition of either the UGC or the AICTE. In view of this, submitted the counsel for respondents that the applicant was not entitled for grant of advance increment for acquiring higher qualification during the service.
9. I have given very thoughtful considerations to the arguments from both the sides and I am of the considered view that there is some force in what counsel for applicant has stated. The circular issued under PS No. 10152 (SR-1) vide its para 3(e) clearly provides that the benefit of incentives should also be admissible to such group 'B' officers, who have qualified the recognized examination (prior to issue of these instructions). From this it appears that what is necessary is recognized examination and not the recognition of the institution by the UGC or AICTE. I may also mention that there are many institutions which do not require the recognition either from the UGC or the AICTE. I don't think it necessary to elaborate on this point. The letter head of Dr. B.C. Roy College of Education itself mentions Govt. Registered and it is located at Calcutta. It may safely be concluded that is a recognized institution by the Govt. of West Bengal. On this ground the applicant succeeds. It may be viewed from other angle also that as per the provisions of the Railway Board circular cited supra, the LLB degree with Labour Laws has been treated equivalent to the PG Diploma in Personal Management. This cannot be ignored as it has been recognized by the circular of the Railway Board and the counsel for the applicant is bound to get the benefit of the circular dated 18.11.92 and he succeeds on this score also.
10. In view of the facts and circumstances, mentioned above and the discussions made, the OA is allowed and the impugned order dated 2.4.2001 is quashed and set aside. The applicant is entitled to two advance increments along with all consequential



benefits. The liberty is given to the respondents to check up with the Govt. of West Bengal with regard to status of Dr. B.C. Roy College of Education regarding its recognition. In case it is found that it has been recognition by the Govt. of West Bengal, the applicant may be granted two advance increments with consequential benefits within a period of two months from the date⁴ of receipt of a copy of this order."

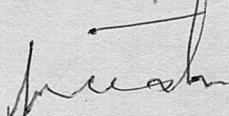
2. The applicant in filing this review application has given the following grounds:

a. The judgment should be seen in its entirety.

But the respondents have confined to the sentence in the last paragraph in the judgment which is inconsistent with the previous observations, and taken advantage of the same to deprive the applicant.

b. Because the petitioner has filed the aforementioned petition on two grounds, firstly, petitioner's institute is recognized institute by Govt. of West Bengal and merely on the basis of LLB Degree, which is equivalent to the degree of Personal Management, petitioner is entitled for 2 advance increments.

c. Because both the grounds conducted by the petitioner was accepted by this Hon'ble Court and this Hon'ble Court gave a specific finding in favour of petitioner and held that petition is liable to succeed on both the grounds, but in the operative portion it appears that wholly



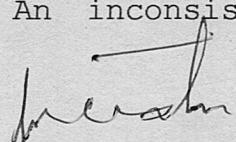
inadvertently. Hon'ble Court omitted to give any direction with regard to payment of advance increment, on the basis of LLB Course done by the petitioner.

d. Because vide paragraph No. 9 of the judgment and order dated 18.8.2004 this Hon'bel Court gave a specific finding that B.C. Roy College of Education wherefrom petitioner has completed his PG Diploma Course is a recognized Institution of Government of West Bengal and therefore, after this finding there was no necessity to give liberty to the respondents to check the status of Dr. B.C. Roy College of Education regarding its recognition.

e. Because respondents are denying benefit of inadvertent omission of respondents and thereby they have arbitrarily withheld the genuine and bonafide claim of the petitioner.

f. Because in case the present Review Petition is not allowed, petitioner shall suffer grave and irreparable loss.

3. The learned counsel for the respondents has opposed this application saying that review application can be taken up only when there is an error on the face of record. An inconsistency

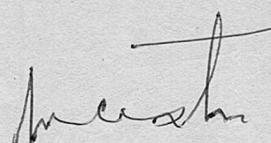


between two observations in the same judgment (even if for argument sake it is presumed to be an inconsistency) cannot be taken as an error in fact.

4. The learned counsel has further stated that if there is any error in fact it is in the observation of the judgment in para 9 of the judgment as follows:

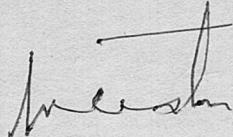
"It may be viewed from other angle also that as per the provisions of the Railway Board circular cited supra, the LLB degree with Labour Laws has been treated equivalent to the PG Diploma in Personal Management. This cannot be ignored as it has been recognized by the circular of the Railway Board and the counsel for the applicant is bound to get the benefit of the circular dated 18.11.92 and he succeeds on this score also."

By citing this and referring to page 28 and 31 of the OA the learned counsel has stated that the observation made in the judgment regarding the equivalence of PG diploma in management with LLB Degree is not bourn out by the clarification in annexure A-6 and annexure A-8 the two circulars of the Railways. By referring to page 22, (the representation by the applicant before the respondents) the learned counsel has further argued that the applicant was asking for two advance increment on the strength of his having acquired PG Diploma in Management from B.C. Roy Institute in Kolkata and not claiming that his possession of LLB degree has to be taken as equivalent to PG Diploma in management.



5. The learned counsel for the respondents has also objected to allowing the review application on the ground of delay. The learned counsel for the applicant however, stated that the respondents themselves sought for extension of time in March 2005 and it was granted in July 2005. The review application was filed in August 2005. So where was the delay?

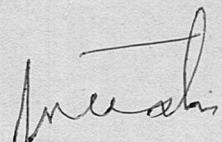
6. The learned counsel for the applicant however said that it was the circular of the Railway Board of 18.11.1992 which was referred to in the observation of the Tribunal at para 9 and not the circulars as pointed out by the learned counsel for the respondents at page 28 and 31 of the OA. The applicant's counsel cites the relevant portion of the letter dated 18.11.1992 and says that it makes it clear that the possession of LLB Degree and PG Diploma in Management are equivalent for granting two advance increments. The learned counsel for the respondents rebuts the same and said that the relevant circular is for consideration of suitability of candidates for selection of welfare Inspectors. To the list of three qualifications including LLB Degree the circular of 18.11.1992 adds one more qualification i.e. diploma in PG Management. I am of the view that the explanation given by the respondents' counsel is not relevant in deciding the review whose scope is not to examine



the validity of the finding of Tribunal which is under review.

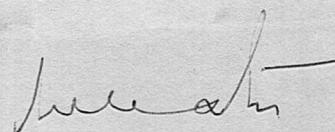
7. Having heard the rival submissions I tend to dispose of the same on merit as I do not think the delay is so much as to make this liable for rejection.

8. On merit I am not convinced by the grounds given by the applicant for review. The error apparent on the face of record as stated by the applicant as ground No. 1 does not exist. If there is any contradiction between two observations in the same judgment that cannot be taken as factual error. The learned counsel for the respondents has contradicted this ground by lengthy arguments. The crux of this is that if there is any error apparent that is in the observation in the judgment that according to the relevant circular in the Railways, possession of LLB degree shall be treated as equivalent to diploma in management. However, I already stated that for the purpose of disposing this review application it is not necessary to comment on this observation of the respondents' counsel. I am of the view that the applicant should have thought twice before approaching the Tribunal in a review making a request for deleting certain part from the operative portion of the judgment of a



coordinate bench. It does not appear to be within the scope of review.

9. Looking at the arguments comprehensively the inference would obviously is that there is not much material to support review of this Judgment. The review application is, therefore, dismissed.



Member (A)

/pc/