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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL ALLAHABAD.

REVIEW APPLICATION NO. 127 OF 1987

IN

Original Application No. 309 of 1986 & 310 of 1986

Pramod Bajpai Applicant

Vs.

Union of India & others..... Respondents.

AND

Kamal Prasad Gautam Applicant

Vs.

Union of India & others..... Respondents.

Hon. Ajay Johri - AM
Hon. G. S. Sharma - JM

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This application has been received under section 22(f) of the Administrative Tribunal Act no. XIII of 1985 seeking review of the judgment and order passed by this Tribunal on 31.8.87 in Registration O.A. No. 309 Pramod Bajpai .vs. Union of India & others and O.A. No. 310 of 1986 Kamal Prasad Gautam. vs. Union of India & others. The sole grounds for review is that in terms of the agreement which is placed at ~~(Annexure-VIII)~~ of the application, In para-17 of this annexure, it has been stated that the apprentice shall undergo training for such trade or trades as may be specified in terms of clause(1) hereof, and no gurantee or promise of employment, temporary/permanent on completion of Apprenticeship is given or implied by the Railway Administration, But on the successful

completion of the Apprenticeship, the Apprentice shall (if he is so required) serve the Railway Administration faithfully and efficiently for a minimum period of five years in any capacity. The contention of learned counsel for the applicant is that in our judgment under review, we had not taken into consideration this aspect and the aspect that Senior Signal Tele-Communication Engineer at Head Quarter Office, had no jurisdiction to conduct any examination for final selection. We had considered this aspect in our judgment wherein, we had remarked as follows:

21 " Direct recruitment to fill class III post in the Indian Railways is made through the agency of Railway Service Commission. Because a person has been selected by the Railway Service Commission it does not mean that he generates a claim for being given a regular appointment. Railways on receipt of the Railway Service Commission's recommendations have to get the character and antecedents of the candidates verified and then issue them an offer. According to the instructions issued by the Railways in 1975 passing of an initial training course wherever it is prescribed is compulsory without which a person cannot be appointed on a job. There is, therefore, no doubt that the initial training course has got to be completed satisfactorily and for satisfactory completion the employer naturally has to conduct some sort of exercise which may consist of having written test or interview or both. According to a particular scheme, before it could be certified that the training has been satisfactorily concluded. It has not been disputed that the applicant was given a number of chances and he availed of them but he failed on all the three occasions. It was only after his failure in the final and third chance that he was discharged. According to para 3 of the Articles of Agreement, which is placed as Annexure '8' to the application, the continuance of apprenticeship from year to year depends on the satisfactory conduct and progress of the apprentice as certified by the authority under whom he may be serving or undergoing training and the Government or the Officer appointed by the Government on that behalf shall be the absolute judge for the purpose of determining whether the progress of the apprentice in training is or is not satisfactory. Thus even the agreement makes it clear that satisfactory completion of training is essential before an apprentice could be considered for regular absorption. In his application dated 11.1.1986 Kamal Prasad Gautam, the applicant in Registration (O.A.NO.310 of 1986) has said that the third

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examination was held at the headquarter level in C.S.T.E. office. This examination was conducted exclusively by a snior Scale Officer and according to the applicant this was only nothing but to assign top seniority to favourites of the officers and to declare unsuitable those who did not have a source of approach. He has also questioned the necessity of holding this examination saying that this examination is superfluous as the candidates are being examined in the same subject in which they were declared passed in the previous examinations. The applicant availed of the three chances which were given to him to qualify in this examination but when he could not qualify he put in this representation. A candidate cannot, after appearing in an examination and taking a chance of favourable recommendation, turn about and question even the validity of such a selection on the point that the officer under whom he was being trained was biased against him. If he had that suspicion or feeling he should have made a representation after his first failure. We also do not find that the malafide on the part of the officer under whom he was under training has been brought out by any cogent and acceptable evidence. Allegations of mala fide are more commonly made they are difficult to prove. There is no material to show that the applicant has been failed inspite of his possessing requisite caliber or competence."

2. The point being raised by the learned counsel for the applicant ^{has} ~~had~~, therefore, ~~had~~ already been considered by us before the judgment was delivered. The review can only be sought for a clerical error or error apparent on the face of record. It cannot be sought for modification of an order which has been passed after due consideration of all the issues and points brought out during the course of arguments. We do not find that there is any clerical error in the judgment. There is no material brought to our notice which was not in the knowledge of learned counsel for the applicant at the time of hearing of the case. The review is, therefore, not maintainable. The application for review is, therefore, dismissed with costs on parties.

[Signature]
MEMBER (J)

[Signature]
MEMBER (A)

Dt/14.7.1988/
Sh. *[Signature]*