

A3

13

RESERVED

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD.

Review Application No. 33 of 1987

IN

Registration(O.A.) No. 576 of 1987.

Km. Sushila Ahuja & another Applicants.

Versus

Union of India & others Respondents.

Hon'ble S. Zaheer Hasan, V.C.
Hon'ble Ajay Johri, A.M.

(Delivered by Hon. Ajay Johri, A.M.)

This is an application seeking review of our orders passed on 25.9.1987 in Registration (O.A.) No. 576 of 1987, Km. Sushila Ahuja & another v. Union of India & others. The grounds for seeking review are :

(a) That the counter affidavit of K.C. Srivastava was wrongly taken into consideration by us.

(b) That we had wrongly taken into consideration that the Lady Searchers were Ministerial Officers instead they belonged to the Executive cadre, thus the proceedings of the alleged DPC was not at all material in deciding the question of absorption and regularisation of the applicants. No DPC was required to be held to regularise the Cost Recovery Inspector.

(c) That no interview was necessary by the DPC according to the procedure for functioning of DPC, and we did not consider that the proceedings of the DPC were to be based on objective data and since there was nothing against the applicants the question was not of adjudicating the proceedings of DPC. The proceedings were actually vitiated.

A3
2

14

-: 2 :-

(d) That we did not take into consideration that reversion after putting in more than 2½ years of service was discriminatory and was on the policy of 'pick and choose' and we could not consider the impact of the fact that the applicants had got awards for their performance.

(e) That we did not appreciate the fact that the promotion was to be done on seniority-cum-suitability subject to rejection of unfit and there is nothing that provides for the preparation of ad hoc panel and no opportunity was given to the petitioners to rebut the proceedings of Departmental Proceedings which have been considered by us. Opportunity for rebuttal should have been given.

(f) The significance of Annexure '3' of the claim petition was not properly appreciated by us and no finding has been given regarding the effect of this document.

(g) That the aforementioned important relevant facts had escaped our attention which needs to be reconsidered and our judgment needs to be reviewed.

3/ ✓
2. In the rejoinder affidavit the applicants have challenged the procedure adopted by the Departmental Promotion Committee in regard to interviewing the candidates and that the suitability should have been judged and various other factors, e.g. physical fitness, training, experience, etc. They have also reiterated their contentions that the affidavit of K.L. Srivastava should not have been considered, and that the Executive and Ministerial quotas for promotion to Inspectors' grade should have been separate. The selection should have been done in accordance with the 1979 rules. They have further said that they should have been told the proceedings of the Departmental Promotion Committee as these adversely affected them.

A3
3

15

-: 3 :-

3. At the Bar these contentions have been repeated by the learned counsel for the applicants and these were opposed by the learned counsel for the respondents.

4. A review is possible only if a correction of a patent error of fact or law which stares in the face without elaborate arguments being needed to establish it is needed. Such applications should also come within four corners of the principles for review of judgments which are :-

- i) Discovery of new and important matter of evidence which, after exercise of due diligence, was not within the knowledge of the party or could not be produced by him at the time when the case was heard.
- ii) Some mistake or error apparent on the face of record.
- iii) For any other sufficient reason.

34 ✓
5. The grounds for review as enumerated in the application for review and the rejoinder do not bring out any error apparent on the face of record or any new facts that were not in the knowledge of the applicants at the time this case was heard. The reading of the review application and the submissions made by the learned counsel for the petitioners shows that the petitioners want us to sit over and hear the appeal of our judgment. For example when we heard the case no objection was raised about the affidavit filed by K.L. Srivastava. In the rejoinder also nothing has been stated about it. It cannot be said that this is an aspect that was not in the knowledge of the petitioners at that time. It is definitely not an error apparent on the face of record or a clerical error. The same applies to other grounds taken in the application.

6. In regard to the procedure adopted by the Departmental Promotion Committee, this point was also raised in the rejoinder in the original application. We had discussed this aspect in para 6 of our judgment. We had concluded that "In any case there is no material to show that there was any irregularity or illegality committed by the Departmental Promotion Committee which could prejudice the case of the applicants.....".

7. If a person could not be empanelled, he had to be reverted what was necessary to see is whether the DPC had faltered in not selecting the applicants. We were satisfied that this was not so. In para 8 we said that ".....We do not find that justice has suffered and the applicants have been reverted illegally.....They were not empanelled and they were not found suitable and, therefore, they were reverted and for this the applicants cannot claim that they have been discriminated against....
....."

34/ 8. We have given due consideration to all other contentions of the learned counsel for the applicants, who argued at length in support of his contentions. The arguments made were as if they were an appeal from our earlier judgment. A review application cannot be a replacement of a proceeding for appeal. For appeal the forum is not this Tribunal. Most of the contentions raised now are reagitation of the entire matter on its merits. This is not within the scope of a review. There has to be a 'glaring omission' or 'patent mistake' or grave error that should have crept in by judicial fallibility. We find no such element. It should be without elaborate argument that one should be able to point the error to sustain a review application. A review cannot be made on


A3/5

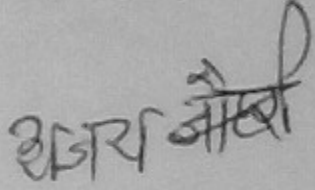
17

-: 5 :-

grounds that the decision was erroneous on merits.

9. On the above considerations we are not persuaded to review or revise our judgment. We dismiss the application without any order as to costs.


Vice-Chairman.


Member (A).

Dated: January 12, 1988.

PG.