

Open Court.

Central Administrative Tribunal,  
Allahabad Bench, Allahabad.

Dated: Allahabad, This the 19th day of January 2000.

Coram:- Hon'ble Mr. S. Dayal, Member (A.)

Hon'ble Mr. Rafiq Uddin, Member (J.)

Review Application No. 1068 of 1993

in

Original Application No. 1031 of 1992.

Mohd. Wasif Khan,  
Assistant Engineer E/M (designate)  
S/O Shri M.A. Khan,  
resident of 738, Khair Nagar Gate,  
Meerut City.  
At present working under STE, OC, Meerut.

. . . Applicant.

(Through Sri Shahid Masood, Adv. and  
Sri R.U. Ansari, Adv.)

Versus

1. Union of India, through the Secretary, Ministry of Defence, New Delhi.
2. The Engineer-in-chief, AHQ-, DHQ, New Delhi.
3. The Chief Engineer, Central Command, Lucknow.
4. The Superintending Tech. Examiner, Central Command, Meerut.

. . . Respondents.

(Through Sri S.C. Tripathi, Adv.)

Order (Open Court)

( By Hon'ble Mr. S. Dayal, Member (A.)

This review application has been filed for granting relief claimed by the applicant in O.A. 1031/92. The prayer made in review application is also for a declaration that punishment imposing minor penalty withholding of one increment for

a period of one year by an authority who was not competent to impose punishment and that the applicant be permitted and relieved to join his promotional post in the light of judgment dated 8.8.91 passed by Chandigarh Bench in O.A. 617/JK of 1990 between R.A. Tyagi Vs. Union of India. It is also prayed that the date of order shown as 25.10.90 be corrected to 30.11.90 and the word including be substituted by the word withholding.

2. The grounds for review are that the D.P.C. Panel for promotion was declared on 17.4.90 and on 20.8.90 a chargesheet for minor penalty was served and promotional orders were issued on 25.10.90. The order for withholding one increment for a year was passed on 30.11.90. It is the contention of the applicant that the minor penalty was imposed by an authority not competent to do so. The minor penalty imposed was void abinitio and withholding of promotion and posting was also therefore illegal. The applicant also seeks to rely on an order of Chandigarh Bench in case of R.A. Tyagi Vs. Union of India in O.A. 617/JK/1990 decided on 8.8.91 and states that the findings of the Allahabad Bench conflicts with the findings of Chandigarh Bench and is therefore an error apparent on the face of record. It has also been mentioned that sealed cover procedure should have been followed in the case of the applicant so that the applicant could have availed of the promotion after punishment dated 30.11.90.


3. We find from the order of the Division Bench dated 15.4.93 in the O.A. that the circumstance of the minor penalty and the maintainability of minor penalty was considered. It has also

been held that the disciplinary authority passed the order which he was competent to do. It has been held that the transfer order was in the exigency of service and during the punishment the applicant could not get any promotion. The directions <sup>was</sup> to consider the applicant for promotion after punishment ~~was~~ over.

4. The scope of review application is limited to issues arising out of an error apparent on the face of record or discovery of evidence which was not available earlier or of gross injustice which is unconscionable. We find that the applicant in Original Application No. 1031/92 had challenged the orders dated 16.6.92 and 30.6.92 and sought directions to the respondents to relieve the applicant to join his posting on promotional post as Asstt. Engineer with retrospective effect. Order dated 30.6.92 which has been annexed to the O.A. <sup>has a</sup> reference to letter of Chief Engineer dated 16.6.92 and informing the applicant that his posting to <sup>the office of Garrison</sup> Asstt. ~~Chief~~ Engineer, Lansdowne had been ordered in the interest of State and he was to be struck off the strength of Superintending Technical Examiner, Central Command Meerut with effect from 10.7.92.

5. In view of the above facts as mentioned, we do not find any justification in preferring a review of the order of Tribunal. The review application is therefore, dismissed as lacking in merits.

  
Member (J.)

  
Member (A.)

Nafees.