

CENTRAL ADMINISTRATIVE TRIBUNAL LUCKNOW BENCH
LUCKNOW.

Review Application No. 12/2010

In

ORIGINAL APPLICATION No: 348/2007

This the 1st day of ^{July} May, 2010

HON'BLE MR. M. KANTHAIH, MEMBER (J)
HON'BLE DR. A. K. MISHRA, MEMBER (A)

Govardhan Prasad Mishra, aged about 49 years son of
Shri Raja Ram Mishra, permanent resident of Patel
Nagar, Bachhrawan. Raebareli (Presently working as
PGT (Economics) in Jawahar Navodaya Vidyalay, Mau)

Applicant

By Advocate Sri R. C. Singh.

Versus

1. Navodaya Vidyalaya Samiti, A-28, Kailash Colony, New Delhi 110048, through its Commissioner.
2. Commissioner, Navodaya Vidyalaya Samiti, A-28, Kailash Colony, New Delhi-110048.
3. Joint Commissioner (Administration), Navodaya Vidyalaya Samiti, A-28, Kailash Colony, New Delhi-110048.
4. Joint Commissioner (Personnel), Navodaya Vidyalaya Samiti, A-28, Kailash Colony, New Delhi-110048.

Respondents

ORDER (UNDER Circulation)

By Hon'ble Dr. A. K. Mishra, Member (A)

This is an application for a review of the order dated 8th April, 2010 of this Tribunal in O.A. 348/2007, in which the prayer of the applicant was dismissed.

2. The grounds stated in this review application are that: (i) the reasoning given by this Tribunal is erroneous;

(ii) the Tribunal had erred in applying the correct ratio of the decisions of the Supreme Court;

(iii) although he had mentioned in the application that under the Right of Information Act, 2005 he got the information that out of total 250 marks, 100 marks were allocated for the interview, but in reply to the applications of others, it was intimated that out of a total 200 marks, 100 marks were allocated for the interview; and finally that according to the applicant, the judgment suffered from errors apparent on the face of record. As such, according to the applicant, the said judgment and order dated 8.4.2010 deserved to be reviewed.

3. On going through the order, we find that it is a detailed judgment in which the ratio of the Supreme Court judgment delivered in many cases bearing on the subject of proportion of marks to be allocated for interview in respect of senior positions to be filled up by candidates with experience and maturity of personality has been discussed extensively. According to us, our finding that the post of Principal is a senior position which required qualities of leadership, alertness, managerial ability in maintaining discipline in the school and achieving higher

standard of efficiency in education management is not erroneous. We do not agree with the contention that there was any error apparent on the face of record.

4. Even if, the contention that according to latest information available with applicant, 50% of the total marks were allocated towards interview is accepted as correct, this is not going to change the nature of finding in our judgment. The ratio of Supreme Court Judgments is that for senior positions where candidates of experience and maturity are being considered allocation of higher percentage of marks even to the extant of 50% is justified. From the present submission, the percentage of marks allocated for interview was 50. Following the law laid down by the Supreme Court, we do not find this allocation as unjustified for selection to the post of Principal of school. Besides, the O.A. was also dismissed on the ground of non-joinder of the relevant parties.

5. The settled law is that the scope of review is limited in nature. It cannot be treated as an appeal for reassessment of law and facts on the subject. The phrase 'error apparent on the face of record' has been discussed and clarified by the

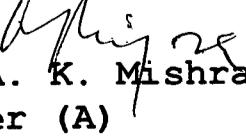
Supreme Court in the case of State of West Bengal and Others Vs. Kamal Sengupta and another reported at (2008) 8 SCC 612. The relevant portion of this judgment is extracted below:

"Where a review is sought on the ground of discovery of new matter or evidence, such matter of evidence must be relevant and must be of such a character that if the same had been produced, it might have altered the judgment. Mere discovery of new or important matter or evidence is not sufficient ground for review *ex debito justitiae*. The party seeking review has also to show that such additional matter or evidence was not within the knowledge and even after exercising of due diligence, the same could not be produced before court earlier.

The term "mistake or error apparent" by its very connotation signifies an error which is evident *per se* from the record of the case and does not require detailed examination, scrutiny and elucidation either of the facts or the legal position. If an error is not self-evident and therefore requires long debate and process of reasoning, it cannot be treated as an error apparent on the face of the record for the purpose of Order 47 Rule 1 CPC or Section 22 (3) (f) of the Act. To put it differently, an order or decision or judgment cannot be corrected merely because it is erroneous in law or on the ground that a different view could have been taken by the Court/Tribunal on a point of fact or law. While exercising the power of review, the court/Tribunal concerned cannot sit in appeal over its judgment/decision."

6. In view of the law laid down by the Supreme Court, we cannot sit in appeal over our own orders. If the applicant is aggrieved with the order, he at liberty to seek redress from appropriate forum.

7. The review application is dismissed.


Dr. A. K. Mishra
Member (A)


(M. Kanthaiah)
Member (J) 10-06-10