

**CENTRAL ADMINISTRATIVE TRIBUNAL,
LUCKNOW BENCH,
LUCKNOW.**

**Review Application No. 6 of 2013
In
Execution Application No. 1990 of 2010
In
Original Application No. 100 of 2004**

Reserved on 14.12.2016
Pronounced on 16th December, 2016

**Hon'ble Ms. Jayati Chandra, Member-A
Hon'ble Dr. Murtaza Ali, Member-J**

Bhupendra Singh Gaharwar, aged about 75 years, S/o late Sri
Tribhuwan Singh, R/o D-1125, Indira Nagar, Lucknow
..... Applicant

By Advocate : Sri P.K. Singh .

Versus.

1. Union of India through the Secretary, Ministry of Defence,
New Delhi.
2. Engineer-in-Chief, Military Engineering Services, E-in-C's
Branch, Integrated Headquarters of Ministry of Defence
(Army), New Delhi.
3. Chief Engineer, Central Command, Lucknow.
4. Chief Engineer, Lucknow zone, Command Hospital Road,
Lucknow.
5. Garrison Engineer (MES), Kanpur.
..... Respondents.

By Advocate : Sri K.K. Shukla.

ORDER

By Ms. Jayati Chandra, Member-A

The present Review Application has been filed under Section 22 (3)(f) of the AT Act read with Rule 17 of CAT (Procedure) Rules, 1987 seeking reviewing of the order dated 29.4.2013 passed in Execution Case no. 1990 of 2010.

2. In brief, the review applicant had filed O.A. no. 100 of 2004 seeking promotion to the post of ASW w.e.f. 31.10.1991 and thereafter promotion as SW and SSW from the date of his immediate juniors. The said O.A. was disposed of by order dated 3.2.2006. The operative portion of the order reads as under:-

“..... We accordingly direct the respondents to consider the applicant for promotion in review DPC in view of PTO no. 47 showing to possess the requisite qualification and to accord

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him promotion on approval w.e.f. the date his juniors have been promoted. In case the applicant is promoted to the post of ASW, he would be entitled to be considered for subsequent promotion as well."

3. As the same was not complied with within the stipulated period of time, CCP No. 98 of 2006 arising out of O.A. no. 100 of 2004 was filed, which was dismissed vide order dated 23.11.2009. Subsequent to that, Execution Application No. 1990 of 2010 was filed and it was decided by order dated 29.4.2013. In the said order, the rival submissions of the parties were dealt with at length culminating in the following observations:-

"It may also be mentioned here that in an execution application, it has to be seen as to whether or nor the order has been executed/complied with. The illegality, if any, in the order passed by the respondents cannot be looked into because it is beyond the ambit of this execution application particularly when the alleged illegality claimed by the applicant appears to be based on certain new points or the points touching the merits of the case."

4. Now the Review Application has been filed under Section 22 (3) (f) of the AT Act read with Rule 17 of CAT (Procedure) Rules, 1987 in which the applicant has mainly raised the grounds that instead of posting him to the post of ASW, he was promoted to the post of JSW w.e.f. 31.10.1999; whereas he was entitled to be promoted as ASW from the year 1988 and his juniors were included in the panel declared on 8.3.1990. In the Execution Application no. 1990 of 2010, he had mentioned that his name was forwarded in the list of officers under letter dated 21/28.6.1988. In deciding the Execution Application, the Tribunal had failed to appreciate various paras of minutes of review DPC filed by the respondents in compliance report dated 25.4.2012, review applicant has taken 11 separate grounds touching the merits of his case as the basis for review of the order dated 29.4.2013 passed in Execution Application no. 1990 of 2010.

5. The learned counsel for the respondents has stated that this Review Application is not maintainable as ground for review is very narrow and is generally based on detection of error, which is evident on the face of the record and does not require elaborate set of reasons.

6. We have heard the learned counsel for the parties and also perused the pleadings available on record.

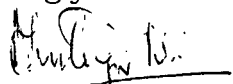
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7. The Review Application has been filed under Section 22 (3)(f) of the AT Act read with Rule 17 of CAT (Procedure) Rules, 1987. To our understanding, the power of such review applies to orders passed in Original Application filed under Section 19 of A.T. Act.

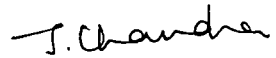
8. The Tribunal has power to get its order executed under Rule 27 of the Act wherein the Tribunal has satisfied itself that the execution of its order passed in O.A. has been carried out. The review of the same, in our opinion, does not lie under Section 22 (3)(f) of the AT Act read with Rule 17 of CAT (Procedure) Rules, 1987. In the instant case, the order dated 29.4.2013 has clearly stated that the alleged illegality, if any, in the order passed by the respondents (involves, the question of promoting the applicant to the post of ASW and beyond) cannot be looked into beyond the ambit of the Review Application especially when the illegality has been claimed on the basis of new facts (as quoted in para 3 above).

8. Apart from the technical ground, even on merit, the various grounds cited by the applicant, in total 11, requires elaborate examination of the entire case, which cannot be said to be lie within the realm of Review as held by Hon'ble Supreme Court in catena of decisions. It is also pertinent to say that the applicant is not entirely remediless as it is open to him to challenge the order promoting him to various levels based on new facts on merits before the appropriate forum *T.U.*

9. In view of the above, the Review Application fails and is accordingly dismissed.



(Dr. Murtaza Ali)
Member (J)



(Ms. Jayati Chandra)
Member (A)

Girish/-