

(3) (A2) 44

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD

LUCKNOW CIRCUIT BENCH

Review Application No.465 of 1990 (L)

In

Registration T.A. No.1742 of 1987 (L)

Shri Brijendra Kumar ..... Applicant

Versus

Union of India & Others ..... Respondents

Hon.Mr.Justice K.Nath, V.C.

Hon.Mr. K.J. Raman, Member (A)

(By Hon.Mr.Justice K.Nath, V.C.)

1. This application is for review of our judgement dated 18.5.90 in the Transfer Application described above whereby the applicant's case for regularization on the post of Lower Division Clerk and for his permanent absorption in the existing vacancy was dismissed.

2. We have carefully gone through the review application and the judgement. Two points have been raised.

3. Firstly, he referred to the observation of this Tribunal in para 4 of the judgement that after the applicant had failed in the regularisation examination held in 1982 he not only did not avail of any opportunity of taking further tests but also there was no basis for the statement that the applicant had applied again for appearing at the Staff Selection Commission Examination. It was pointed out that the applicant had not stated in his petition that he had made any application for the purpose. It is stated in this review application that the applicant had applied for appearing at the examination held in 1983 by letter dated 23.9.83 addressed to the

Chief Medical Officer. It is further said that his another application for appearing in 1985 examination was forwarded to the Staff Selection Commission on 20.4.1985 but there was no occasion for the applicant to make specific reference of those applications in the original petition. In our opinion, the applicant should have known that it was necessary for him to prove that he had sought further opportunity for appearing at the examination. Indeed, the learned counsel for the applicant had referred to an earlier decision of this Bench to show that when opportunity was sought to appear at the further examination, the Tribunal had ordered the opportunity to be given. The point is that the applicant cannot be said to have discovered a new material in support of his claim which was not available to him at the time when the application was filed or heard. It is not possible to consider such material now.

4. The second ground is that the Tribunal did not consider the question of discrimination against the applicant inasmuch as adhoc employees junior to the applicant had been allowed to continue in the post on adhoc basis whereas the services of the applicant were terminated. The contention is not correct because the instance of Smt. Parvinder Kaur was referred to by the applicant in this connection and was considered in para 3 of the judgement. It was specifically observed by us that the applicant's grievance was that

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Smt. Parvinder Kaur was appointed as L.D.C. in adhoc capacity long after the petitioner<sup>and</sup> was regularised as L.D.C. while the petitioner was not. It was observed that the case of Parvinder Kaur was clearly distinguishable because she had successfully passed the selection test held by the Staff Selection Commission. There is no question therefore of the Tribunal not examining the plea of discrimination.

5. There is no force in this Review Application. The Review Application is therefore dismissed.



Member (A)



Vice Chairman

Dated the 4<sup>th</sup> Oct., 1990.

RKM