

CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH

R.P. No. 83/97
OPEN COURT / PRE-DELIVERY JUDGMENT IN OA 1103/96

Hon'ble Vice Chairman / Member (J) / Member (A)
may kindly see the above Judgment for
approval / signature.

Hon'ble Vice Chairman / Member (J) / Member (A) (K/S)

● Hon'ble Vice Chairman

◆ Hon'ble Member (J)

Hon'ble Member (A) (K/S)

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CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH

R.P. NO.: 83/97 IN O.A. NO.: 1103/96.

Dated this Friday, the 19th day of September, 1997.

CORAM : HON'BLE SHRI B. S. HEGDE, MEMBER (J).
HON'BLE SHRI M. R. KOLHATKAR, MEMBER (A).

T. R. Gholap ... Applicant

V/s.

Union Of India & Others ... Respondents.
(Review Petitioner).

TRIBUNAL'S ORDER BY CIRCULATION :

¶ PER.: SHRI B. S. HEGDE, MEMBER (J) ¶

This review petition is filed by the respondents seeking review of the judgement dated 22.07.1997 which has been received by the respondents on 08.08.1997 and therefore, the review petition has been filed within time.

2. The contention of the Learned Counsel for the respondents is that the confirmation order has been revised pursuant to the direction of the Tribunal in O.A. No. 604/90 vide dated 12.08.1994 wherein the Tribunal had observed that "the action of the administration in confirming the applicant from a date later than the private respondents is violative of the statutory rules, and accordingly quashed the impugned order dated 27.02.1989 and directed the administration

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to issuea fresh order of confirmation which should be in conformity with the Recruitment Rules, 1966, etc. The applicant should be promoted to this level from the date Shri H.P. Solanki was regularly promoted; etc."

3. In O.A. No. 1103/96 the applicant has challenged the impugned order dated 04.10.1996 wherein the applicant's promotion is treated as w.e.f. 04.10.1996 and he has been shown below his juniors. After hearing both the counsel, the Tribunal was of the view that since the applicant has been promoted to the post of Head Master right from 1979, thereafter, consequent upon repatriation the applicant has been posted as Education Officer (Academic) on newly created post under the Education Department. It is observed that the respondents have made mistake in revising the seniority list of Assistant Teacher prior to 1989. In the earlier O.A. No. 604/90 the impugned order dated 27.02.1989 has been challenged, therefore, only thereafter the confirmation of seniority could be modified and not earlier than that. Admittedly, the applicant has been confirmed as Head Master in 1980 whereas the Respondents vide their order dated 04.10.1996 revised the order by which the applicant has been shown promoted to the post of Head Master, which is considered as violative of Articles 14 and 16 of the Constitution. Since the applicant has been confirmed as Headmaster in the year 1980, the impugned order showing the applicant as being confirmed as

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Headmaster in 1996 is patently found to be illegal and contrary to the procedure in vogue. Considering his confirmation as Headmaster in the year 1980 and his seniority, direction was given to the respondents to consider the applicant to the post of Assistant Director after convening a regular D.P.C. and as per seniority, etc. It is true that no time limit has been given in the judgement regarding implementation of the direction to the respondents.

4. We do not find any new grounds made out by the respondents to review our judgement. The parties are well aware that the power of review may be exercised on the discovery of new and important matter or evidence which, after the exercise of due diligence was not within the knowledge of the person seeking the review or could not be produced by him at the time when the order was made, etc. That is not the scenario in the present case. A review is by no means an appeal in disguise whereby an erroneous decision is reheard and corrected, but lies only for patent error.

5. In the light of the above, we find neither any error apparent on the face of the record has been pointed out nor any new fact has been brought to our notice to review our judgement. The grounds raised in the review petition are more germane for an appeal against our judgement and not for review. The Review Petition is, therefore, dismissed by circulation.

M.R.Kolhatkar
(M. R. KOLHATKAR)

MEMBER (A)

B.S.Hegde
(B. S. HEGDE)
MEMBER (J).