

CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH: :MUMBAI

REVIEW PETITION NO.70/2001
IN
ORIGINAL APPLICATION NO.807/1996

THIS THE 29TH DAY OF MAY ,2002

CORAM: HON'BLE SHRI S.L. JAIN. .. MEMBER (J)
HON'BLE SMT. SHANTA SHASTRY. .. MEMBER (A)

Shri Gulabrao Dharmu Pol

Versus

1. The Union of India
through the Secretary to the
Government of India,
Ministry of Home Affairs,
South Block, New Delhi-110 011.
2. The Chairman,
Union Public Service Commission,
Dolphur House, Shahajan Road,
New Delhi-110 001.
3. The State of Maharashtra,
through the Chief Secretary to
the Government of Maharashtra,
Home Department, Mantralaya,
Mumbai-400 032. Respondents

O R D E R

Hon'ble Shri S.L. Jain. Member (J)

The applicant in OA 897/96 which was decided vide order dated 07th November, 2001, has filed this review petition against the said order after receipt of the copy of the same within the period of limitation.

2. The applicant has stated that vide order dated 26.5.94 for the first time he came to know of the year of allotment and immediately thereafter he preferred the representation dated 27.7.1994 praying therein that the petitioner should be granted promotion to the Indian

S.L. Jain

...2.

Police Service in the year 1988 itself and accordingly the petitioner should be granted the appropriate year of allotment, which would be 1984 instead of 1987 as granted by the respondents by their order dated 26.5.1994. He further states that he preferred another representation dated 10.01.1995 for the appropriate relief which came to be ultimately rejected by order dated 28.8.1995 conveyed to him vide order dated 20.11.1995. Thereafter, he filed the OA on 25.7.1996 within the period of limitation. As far as the facts stated by the applicant, there cannot be any delay.

3. The applicant contended that the grievance pertains to the year 1988 when he became eligible for consideration for appointment by promotion to the Indian Police Service as long as the respondents did not grant the applicant the said appointment by promotion and/or they did not fix his seniority under the relevant rules, the petitioner could not have any cause of action to approach the respondents and/or the Hon'ble Tribunal. The petitioner states that it was only when the petitioner's seniority was determined by the respondents the petitioner could challenge the seniority list and seek for appropriate relief. The applicant referred the finding of the order dated 07.11.2001 of this Tribunal "perusal of the reasons submitted by the Respondent No.2 for delay in meeting are not convincing" "applicant's grievance had merits. The applicant states that in OA

Page 2 -

No.866/2000 this Tribunal has held that "at the same time since seniority is relevant for promotion and it effects the promotion prospects of the applicant, promotion being a continuous cause of action, we are inclined to overlook this objection and to proceed with the matter on merits".

4. The applicant has also referred to the findings of this Tribunal that his case has been considered against the vacancy of 1989-90, whereas the petitioner's case was that the petitioner was not only eligible but also entitled to be considered in 1988 and his case should have therefore been considered for the vacancies which arose in the year 1988.

5. He further contends that there is clubbing of vacancies. The grievance of the applicant regarding clubbing of the vacancy and promotion being a continuous cause of action, which is based on an order passed by this Tribunal in OA 866/2000.

6. After filing the review petition on 20th November, 2001 the applicant has filed another MP on 30th December, 2001 placing the judgment of the Apex Court AIR 1987 SC 1353 (Collector, Land Acquisition, Anantnag Vs. Katiji), 1997 SCC (L&S) 41 Union of India & Others Vs. Vipinchandra Hiralal Shah. It is an

P.L.M. -

attempt on the part of the applicant seeking fresh hearing in the matter and to decide the OA afresh.

5. Order XLVII Rule CPC which is applicable in view of Rule 17 of CAT (Procedure) Rules 1987 and Section 23 (1) (f) of Administrative Tribunals Act, 1985 is worth consideration. On perusal of the same we are of the considered view that a review does lie only in the circumstances (i) when there is an error apparent on the face of the record (ii) when evidence which could not be produced after due exercise of deligent has been brought before or (iii) any other analogues matter. Considering the grievance of the applicant in the light of the facts stated by the applicant, we are unable to find out that there is an error apparent on the face of the record. Certainly when applicant's case was to be considered in the year 1988 he slept over the matter and thereafter, after consideration of his case and allotment of the year of recruitment, after representation dated 27.7.1994, further representation dated 10.01.1995 and rejection thereof, he came to the Tribunal. We do not find any error apparent on the face of the record. The applicant is seeking to ^{re}argue the case. He cannot be permitted to have the second innings afresh.

7. The applicant's case is not covered under Order XLVII Rule 1 CPC. Review petition and M.P. deserves to be dismissed and ~~be~~ dismissed accordingly.

Shanta
(SMT. SHANTA SHASTRY)
MEMBER (A)

S.L. Jain
(S.L. JAIN)
MEMBER (J)