

CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH, MUMBAI

ORIGINAL APPLICATION NO. : 807/96

Date of Decision : 7th November 2001

G.D.Pol Applicant

Shri S.R.Atre Advocate for the
Applicant.

VERSUS

Union of India & Ors. Respondents

Shri V.S.Masurkar for R-1&2, Advocate for the
Shri M.I.Sethna for R-3 Respondents

CORAM :

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

The Hon'ble Smt. Shanta Shastri, Member (A)

- (i) To be referred to the reporter or not ? *yes*
- (ii) Whether it needs to be circulated to other x0
Benches of the Tribunal ?
- (iii) Library *yes*

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

mrj.

CENTRAL ADMINISTRATIVE TRIBUNAL

MUMBAI BENCH, MUMBAI

OA.NO.807/96

Dated this the 7th day of November 2001.

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

Hon'ble Smt.Shanta Shastri, Member (A)

Gulabrao Dharmu Pol,
Deputy Commissioner of Police,
Zone V, Greater Bombay,
C/o. Tilak Nagar Police Station,
Chembur, Bombay.

...Applicant

By Advocate Shri S.R.Atre

vs.

1. The Union of India
through the Secretary,
Government of India,
Ministry of Home Affairs,
South Block, New Delhi.
2. The Chairman,
Union Public Service Commission,
Dholpur House, Shahajahan Road,
New Delhi.
3. The State of Maharashtra
through the Chief Secretary
to the Govt. of Maharashtra,
Home Department, Mantralaya,
Bombay.

...Respondents

By Advocates Shri V.S.Masurkar
for Respondents No. 1 & 2 and
Shri M.I.Sethna for Respondent
No. 3.

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Signature

O R D E R

{Per : Shri S.L.Jain, Member (J)}

This is an application under Section 19 of the Administrative Tribunals Act, 1985 seeking the reliefs as under:-

" 8. (a) This Hon'ble Tribunal be pleased to call for the records and proceedings of the present case and especially the proceedings of the Selection Committee meeting held on 22.2.1990 and direct the respondents to prepare the select list yearwise for appointment by promotion to the Indian Police Service and accordingly after quashing the order dated 28.8.1995 (Annexure 'A-1') direct the respondents to grant the applicant his appropriate year of allotment in the Indian Police Service by cancelling the order dated 26.5.1994 (Annexure 'A-10'), namely, on the basis of the unamended rules of seniority by which he is governed with all consequential reliefs including arrears of pay, seniority, etc.

(b) This Hon'ble Tribunal be pleased to quash and set aside the order dated 28.8.1995, conveyed to the applicant vide order dated 20.11.1995 (Annexure 'A-1') as illegal and bad in law accordingly direct the respondents by cancelling the order dated 26.5.1994 (Annexure 'A-10') to grant the applicant appropriate year of allotment in the Indian Police Service as per his selection against the vacancies as were available in the years 1988 and 1989 on the basis of his being governed by the old rules of seniority including his continuous officiation in the cadre post since 10.5.1988 with all consequential benefits including arrears of pay, seniority etc.

(c) This Hon'ble Tribunal be pleased to quash and set aside the order dated 28.8.1995, conveyed to the applicant vide order dated 20.11.1995 and accordingly direct the respondents to cancel the order dated 26.5.1994 (Annexure 'A-10') and, in the alternative, direct the respondents to grant the applicant his appropriate year of allotment in the Indian Police Service by holding him to have been appointed to the Indian Police Service in the year when the Selection Committee held its meeting namely, in the year 1990 and not 1991 with all consequential benefits including arrears of pay, seniority etc.

S. Jain - ..3/-

(d) Pass any such order and/or orders as this Hon'ble Tribunal deems fit and proper in the facts and circumstances of the present case.

(e) Cost of the application be provided for."

2. The applicant was directly recruited as a Deputy Superintendent of Police in the year 1979, joined the Maharashtra State Police Services on 1.5.1979. The applicant completed his probation period satisfactorily, continued to officiate as Deputy Superintendent of Police on a regular basis w.e.f. 3.9.1981. He was promoted as Superintendent of Police w.e.f. 10.5.1985 and posted as Deputy Commissioner of Police, Pune City. He is working in same post since then. By order dated 13.4.1989 the Respondent No. 3, i.e. Government of Maharashtra in the Home Department confirmed the applicant in the post of Deputy Superintendent of Police/Assistant Commissioner of Police, w.e.f. 31.12.1987.

3. The Committee which meets for selection of candidates for appointment by promotion to the Indian Police Service is to consider the cases of all substantive members of the State Police Service who on the first day of January of the year in which such Committee holds its meeting had completed not less than 8 years of continuous service, whether officiating or substantive, in a post of Deputy Superintendent of Police. The applicant was eligible for nomination to Indian Police Service after completion of 8 years of service as a Deputy Superintendent of Police w.e.f. 1.1.1988. As per regulation, each committee shall meet at

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intervals ordinarily not exceeding one year and consider cases of all substantive members of the State Police Service, who on the first day of January of that year had completed not less than 8 years of continuous service (whether officiating or substantive) in a post of Deputy Superintendent of Police. The Committee was required to meet every year for consideration of cases. The Committee did not hold its meeting in the year 1988 and 1989. Therefore, the applicant's case does not appear to have been considered against the vacancies arising in the same year.

4. In fact, the meeting of the Selection Committee came to be held on 26.2.1990 whereas the order appointing the applicant to the Indian Police Service came to be issued on 8.3.1991. Thus, the order of appointment was delayed for more than one year. The applicant was declared fit for promotion to the Indian Police Service, had the order been issued timely, the applicant's seniority in the Indian Police Service would have been fixed atleast by granting him the allotment year of 1986 instead of the year 1987.

5. The cadre review has to be undertaken at the appropriate stages. The additional posts would have been made available in the year 1988. The Committee merged the vacancies together. Preparation of such a select list is violative of principles as select list is to be prepared every year and the procedure adopted as stated above does not serve the object of the Act as

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it does not afford equal opportunity to the promotee officers to reach higher echelons of the services. The dereliction of the statutory duty cast on the Government is required to be compulsorily accounted for by the State Government concerned.

6. The Indian Police Service (Regulation of Seniority) Rules came to be amended by a notification dated 27.7.1988 and vide Rule 3 (3) the said Rules have been specifically made prospective in their application. Had the Committee held its meeting for selection of candidates for appointment by promotion to the Indian Police Service each year and had not clubbed the vacancies which arose in the years, 1988, 1989 and 1990, the applicant could have been selected against the vacancies which otherwise arose in the year 1988 itself and accordingly the applicant could have been governed as far as regulations of seniority are concerned by the rules of seniority, which were in force prior to 27.7.1988. The rules of seniority which came to be amended by a notification dated 27.7.1988 cannot be made applicable in the case of the applicant as they are prospective in nature.

7. The Respondent No. 1 issued a notification dated 9.2.1993 whereby the applicant was confirmed in the Indian Police Service w.e.f. 8.3.1992 and vide notification dated 26.5.1994 the applicant's year of allotment was determined as 1987. Being aggrieved by the above referred action of the respondents, the applicant represented the matter vide representation dated

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27.7.1994, additional representation dated 10.1.1995, which was rejected by Respondent No.1 vide order dated 28.8.1995 conveyed to the applicant by Respondent No. 3 vide their letter dated 20.11.1995. Hence, this OA. for the above said relief.

8. The Respondent No. 2 - Union Public Service Commission resisted the claim of the applicant on the ground that there is no provision for preparation of year-wise select list. The word 'Ordinarily' referred in Rules has been interpreted by the Apex Court in case of Syed Khalid Rizvi & Ors. vs. Union of India & Ors., JT 1992 (Suppl.) SC 169, Ramchandra Dayaram Gawande vs. Union of India & Ors. reported in JT 1996 (6) SC 361 and H.R.Kasturi Rangan vs. Union of India & Ors., 1998 (1) SCALE SP 11. The preparation of the yearwise list is not feasible in view of Regulation 7 (4) read with Regulation 5 (1) and 5 (3). In the instant case, the Government of Maharashtra on 29.1.1990 while forwarding the proposal for holding the Selection Committee Meeting had stated that due to some administrative difficulties proposal of the Government of Maharashtra for holding Selection Committee Meeting for preparing Select List for 1988 could not be submitted to UPSC. The Selection Committee Meeting was held on 22.2.1990. The Government of Maharashtra forwarded their comments/observations on the minutes of the Meeting to the UPSC on 4.9.1990. The Union Public Service Commission after considering the observations of the State Government conveyed their approval of the minutes of the Meeting dated 22.2.1990 to

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the Ministry of Home Affairs on 24.9.1990. Thus, there was no delay on the part of the Commission in approving the minutes of the Meeting dated 22.2.1990. The carrying out of the triennial Cadre review is the subject with which the State and the Central Government are concerned and UPSC has no part to play in the same.

9. The Respondent No. 2 further filed the additional written statement stating the said defences, dealing with the matter more elaborately and prayed for the dismissal of the OA.

10. The Respondent No. 1, i.e. Union of India filed the separate written statement resisting the claim of the applicant and alleging that the action of the respondents is strictly in accordance with the provisions of relevant IPS (Regulation of Seniority) Rules, 1988. The officiation on a cadre post is not taken into consideration while fixing seniority of a promotee IPS officer under IPS (Regulations of Seniority) Rules, 1988. The said seniority rules have no concept of benefit of cadre officiation in fixing the seniority. The word "first day of January" has been substituted by "First Day of April" by Department of Personnel & Training vide their notification dated 7.11.1989. The Central Government have very little role in the whole process. A proposal for holding the Selection Committee Meeting for the year 1988 was sent to the UPSC by the Respondent No. 3 vide their letter dated 3.6.1989. The UPSC informed that

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the meeting of the Selection Committee will be held during 1989 in terms of Regulation 5 of the IPS (Appointment by Promotion) Regulations, 1955. The Selection Committee is required to consider the cases of all State Police Service Officers who are eligible as on 1.1.1989. Accordingly, a revised proposal was sent by the State Government to the UPSC for holding Selection Committee meeting for preparation of the select list for the year 1989. The Selection Committee Meeting could not be held due to administrative reasons and there was no intention of marring the career of any officer. The appointment of SPS officers to IPS are made on specific recommendation by the State Government as provided in Rule 9 (1) of the IPS (Appointment by Promotion) Regulations, 1955. It is prerogative of the State Government to fill up a vacancy in promotion quota. The grounds raised by the applicant are hypothetical. The review of a cadre would always lead to encadrement of post cannot be taken as granted. It may also result into decadrement of existing posts depending upon the circumstances at a particular time. An SPS officer cannot claim holding of cadre review as mandatory for enhancing the promotional avenues. The yardsticks for cadre review clearly stipulate that encadrement of posts should not be undertaken with a view to enhance the promotional avenues. The promotion of the applicant to IPS was not delayed for want of vacancy in the promotion quota. The Selection Committee Meetings are generally held in November and december of the year. The date of appointment as Dy.S.P. cannot decide the applicability of the

seniority rules of IPS. It is only the date of appointment to IPS which is crucial in deciding the applicability of seniority rules of 1988. As the applicant has been appointed to IPS on 8.3.1991, his seniority in the IPS has correctly been fixed in terms of IPS (Regulation of Seniority) Rules, 1988 which has come into existence w.e.f. 27.7.1988. The representation of the applicant was carefully considered and rightly rejected. Hence, prayed for dismissal of the OA. along with cost.

11. The learned counsel for the applicant relied on a decision of this Bench in OA.NO.194/99 decided on 2.11.1999 which lays down the proposition that confirmation to the post of Deputy Superintendent and counting the period of 8 years from the said date is not warranted by law. On perusal of the said authority, we found that the said decision is based on the decision of the Apex Court reported in A.I.R. 1996 S.C. 2165 - Ashok V.David vs. Union of India and Others and we see no reason to disagree or dissent with the said decision. As such the defence raised by Respondent No. 1 that applicant was eligible for consideration only after a period of 8 years from the date of confirmation fails to the ground. In the result, it is held that the date for consideration in case of the applicant was 1.5.1987, i.e. after completion of eight years of service as Deputy Superintendent of Police. As such he was eligible for consideration on 1.1.1988.

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12. The change of date from First day of January to First day of April vide Notification dated 7.11.1989 is not applicable in case of the applicant, as the said notification is later in time and is not retrospective in operation.

13. As per regulation, each committee shall meet at intervals ordinarily not exceeding one year and consider cases of all substantive members of the State Police Service, who on the first day of January of that year had completed not less than 8 years of continuous service (whether officiating or substantive) in a post of Deputy Superintendent of Police. Admittedly, the committee failed to meet accordingly. It is true that it is dereliction of statutory duty caste on the Government and is to be accounted by the State Government satisfactorily.

14. The learned counsel for the applicant rightly relied on 2000 A.I.R. SCW 4549, S.Ramanathan vs. Union of India & Ors. and argued that Infraction of State to review cadre strength as envisaged Police Service Rules - cannot be whittled on the hypothesis that no vested right of employee is jeopardised State failing to explain infraction/non compliance with requirements of law can be compelled by court to perform it's duty. In view of the said legal position, we are unable to agree with the defence raised by the State of Maharashtra that it is prerogative of the State Government to fill up a vacancy in promotion quota. As such the defence falls to the ground.

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15. The Hon'ble Apex Court in Civil Appeal No.16769, 16771/96 with 16772-74 & 16775-77/95 in case of Nepal Singh Tanwar etc. vs. Union of India & Ors. etc. has held as under :-

"Adverting to their earlier judgements in the case of Syed Khalid Rizvi, a larger bench of the Hon'ble the Supreme Court in the case of H.R.Kasturi Rangan vs. Union of India and others, have held that the word 'Ordinarily' in Regulation 5 appears to have been overlooked by the Bench deciding Rizvi's case. The Hon'ble the Supreme Court in their earlier judgement dated 28th July,1993 have further held as under :-

"'Preparation of the select list every year is mandatory.' In our opinion these observations in the decision in Rizvi have to be read in the context and together with what follows that observation. It has been stated thereafter that the dereliction of the statutory duty must satisfactorily be accounted for by the State Government concerned and this Court takes serious note of wanton infraction. It is clear from the observations which follows that the importance of performing this exercise annually was emphasised and it was pointed out that in the event of any failure, the lapse must be satisfactorily explained by the State Government concerned. This is itself an indication of the purpose for which the performance of that exercise annually was described as mandatory, without saying that its breach invalidates the subsequent action.

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..... It is, therefore, clear that the failure to prepare the select list annually was not accepted as a ground to invalidate the select list for that reason alone in Rizvi. It is in this manner that the word 'mandatory' used in para 34 has to be understood."

6. Further, the Hon'ble Supreme Court in the case of Ramchandra Dayaram Gawande vs. Union of India and others [JT 1996 (6) SC 361] in their judgement dated 10th May,1996 have also held as under :-

The State Government is enjoined to account for dereliction of the statutory duty satisfactorily to the court..... The Government have properly explained the circumstances in which the Committee could not meet to consider the claims for selection of candidates.

In support of this contention, strong reliance was placed on the decision of this court in Syed Khalid Rizvi & Ors. etc. vs. Union of India & Ors. etc. [JT 1992 (Suppl.) SC 169], wherein it was held that it was mandatory to meet and prepare a select list for succeeding year under Regulation 5 and failure to do so will not permit the authorities to appoint from the earlier list treating it to be in operation.

In Rizvi's case, it is no doubt true that this Court stated that under Regulation 5 preparation of Select List every year is mandatory'. However, this decision was considered in C.A.No.3891-94/94 (H.R.Kasturi Rangan vs. Union of India) and it was clarified by the order dated 28.7.1993 that the observations had to be read in the light of the subsequent observation in that every judgement wherein it was stated that dereliction of the statutory duty must be satisfactorily accounted for by the State Government which meant that if the State Government was in a position to satisfactorily account for its failure to prepare a Select List as required by Regulation 5 that would be a valid ground for its failure to prepare the Select List for the subsequent years. The Regulation uses the expression 'ordinarily' which means that ordinarily it is the duty of the State Government to prepare the Select List unless there are satisfactory reasons to account for its failure to do so. If it is able to show that it failed to prepare the Select List on account of certain reasons and if those reasons are found to be satisfactory by the Court its failure to prepare the Select List would be excused....."

3. That the main contentions of the applicant, Shri Gulabrao Dharmu Pol, in the O.A. are as follows :-

(i) The Selection Committee did not hold its meetings during the years 1988 and 1989 and in the year 1990 the vacancies pertaining to the years 1988 & 1989 were clubbed together with the vacancies of 1990. Had the Selection Committee Meeting been held in 1988, and had the applicant been considered for that year, he would have been promoted in the year 1988 itself, instead of 1991, and would have been in a position to secure the seniority in Indian Police Service and thereby the appropriate year of allotment. The preparation of Select Lists every year is mandatory and not preparing the Select Lists every year does not sub-serve the objects of the Act;

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(ii) That the Selection Committee Meeting was held on 22.2.1990 and the order appointing the applicant to Indian Police Service was issued on 8.3.1991, after a delay of more than one year. Had the appointment been made immediately after the Selection Committee Meeting, the applicant's year of allotment in Indian Police Service would have been 1986 instead of 1987;

(iii) That had the triennial Cadre Review as per Rule 4(2) of IPS (Cadre) Rules, 1954 been undertaken at appropriate time, the additional posts would have been made available in the year 1988 itself. After taking into consideration the triennial Cadre Review and without bunching of the vacancies, the applicant would have been in the Select List for promotion to Indian Police Service in the year 1988 itself."

"9. The Deponent further submits that IInd Proviso to Regulation 5(3) also provides a safeguard for consideration of SPS Officers who were eligible for consideration during preceding year or years but could not be considered as no meeting was held during such years. IInd Proviso to Regulation 5 (3) reads as under :-

"Provided further that a member of the State Police Service who has attained the age of fifty-four years on the first day of April of the year in which the Committee meets shall be considered, by the Committee, if he was eligible for consideration on the first day of "April of the year or any of the years immediately preceding the year in which such meeting is held but could not be considered as no meeting of the Committee was held during such preceding year or years."

Thus, it is clear from the aforementioned Proviso that the framers of the Regulation had also contemplated that there may be some circumstances where meeting of the Selection Committee may not be held annually. Had it been the intention of the framers of the Regulation that the Selection Committee has to prepare the yearwise Select Lists when it meets after 2-3 years or more, then they could have not included the IInd Proviso to Regulation 5 (3) which provides a safeguard for consideration of over aged officers."

Perusal of the reasons submitted by Respondent No. 2 for delay in meeting are not convincing.

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The applicant was not vigilant in this respect to assert his rights timely. The law helps the vigilant and not ~~to~~ those who sleep~~s~~ over their rights and try to litigate their stale claims. As such, though the applicant's grievance has merit but he is not competent to raise this plea now at belated stage as barred by time, suffers from delay and laches.

16. Amendment to Rules, i.e. Indian Police Service (Regulation of Seniority) Rules vide Notification dated 27.7.1988 and their applicability to the applicant cannot now be challenged in view of discussion in earlier para of this order.

17. Even after Notification dated 9.2.1993 whereby the applicant was confirmed in the Indian Police Service w.e.f. 8.3.1992, the applicant slept over his rights and for the first time represented the matter on 27.7.1994.

18. We do find ^{fault} on the part of Government of Maharashtra in not acting as per regulation, with no satisfactory explanation and further in forwarding their comments/observation on the minutes of the meeting to the U.P.S.C. which is delayed by more than 8 months.

19. The applicant's grievance raised in representation dated 27.7.1994 followed by another representation dated 10.1.1995 which was rejected by the Respondent No. 1 vide order dated 28.8.1995 was relating to his grievance arising on 1.1.1988 and

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thereafter, which was raised for the first time on 27.7.1994, as such claim deserves to be rejected as barred by time and suffers from delay and laches. If considered, it would unsettle the settled position persisting since last 8 years.

20. We have also perused the Minutes of the Selection Committee dated 22.2.1990 and found that for the vacancies of the year 1989-90, the name of the applicant was considered and recommended. The grievance regarding clubbing of vacancies has no basis.

21. In the result, OA. deserves to be dismissed and is dismissed accordingly with no order as to costs.

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(SMT. SHANTA SHASTRY)

MEMBER (A)

S.L. Jain -

(S.L. JAIN)

MEMBER (J)

mrj.

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

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

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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

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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)