

CENTRAL ADMINISTRATIVE TRIBUNAL

MUMBAI BENCH, MUMBAI

R.P.No.4/2001 in OA.No.100/2000

Dated this the 21st day of November 2001.

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

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

Bhausahab Laxman Nikam

...Applicant

By Advocate Shri S.P.Kulkarni

vs.

Union of India & Ors.

...Respondents

By Advocate Shri V.S.Masurkar

O R D E R

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

This is an application under Rule 17 of Central Administrative Tribunal (Procedure) Rules, 1987 for review of the order passed in OA.No.100/2000 dated 14.12.2000.

2. The grounds of the review are as under :-

"(i) The recourse to termination Notice under Section 6 of P&T E.D.A. (C&S) Rules, 1964 is held as illegal by this Hon'ble Tribunal and also by several other Judgement and more over. the employees concerned is to be given full opportunity of being heard by the Competent authority before passing final order (Not under Rule 6 of ibid) and after giving personal hearing to such an E.D.Employee. This contention of the applicant was not appreciated while passing the Judgement.

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(ii) The applicant was duly selected being meritorious and having highest percentage of marks among all the candidates, and was appointed as EDBPM, Mokbhang. However, this Hon'ble Tribunal in para 3 of the judgement held that the applicant is having lower percentage of marks in S.S.C. This view is taken by the Hon'ble Tribunal appears to be contrary to the fact.

(iii) There was no irregularity apparently selection of the applicant. However, the contention of the respondents that the applicant was selected irregularity was upheld by this Hon'ble Tribunal, which appears to be ex-facie arguable point on the basis of law laid down and appears not concluded after going into it specifically.

(iv) -----

(v) In fact, the applicant has not preferred an appeal against the Notice of termination but the applicant has preferred a representation in reply to the show cause notice only which was required to be disposed of before passing final order of termination by the respondents but the same is still pending and the final order passed by the respondents terminating services of the applicant is contrary to the principles laid down and violative of principles of natural justice.

(vi) -----

(vii) -----"

We have heard the parties.

3. The ground raised in para 2 (i), (iii), (iv) & (vii) are nothing but to re-argue the matter in Review. The underlying object of Review is not to enable the Court/Tribunal to write a second judgement. A mere repetition of the old and considered arguments cannot create a good ground for review. As such the above referred grounds cannot be considered in Review Petition.

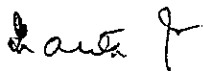
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4. The ground raised in para (ii), after consideration of the same, we are of the considered view that in para 2 - 6th line of the order instead of "He was duly selected and appointed", "He was approved" ought to have been mentioned.

5. The ground mentioned in para (v), we are of the considered view that in para 9 - 1st line of the order word "appeal" deserves to be substituted by word "representation". Similarly, in para 9 - 3rd and 5th line instead of word "review" and "appeal/review" respectively, the word "representation" deserves to be substituted.

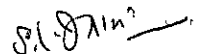
6. The ground mentioned in para (vi) - we are of the considered view that in para 11 - 5th line of the order "not only this, the name of the applicant was never approved in selection" deserves to be omitted. In para 3 - IInd line of the order after the word charge and thereafter applicant coma (,) be added.

7. In the result, review is partly allowed. The necessary substitution, deletion and addition is made in the order dated 14.12.2000. An amended copy of the order be supplied to both the parties.



(SMT.SHANTA SHASTRY)

MEMBER (A)



(S.L.JAIN)

MEMBER (J)

mrj.