

(21)

Central Administrative Tribunal

~~HYDERABAD BENCH : AT HYDERABAD~~
NEW BOMBAY BENCH : AT BOMBAY.

P.A. No. 36/90 in
P.A. No. 168/90

Date of Decision :

_____ Petitioner.

Versus

Respondent.

Advocate for the
Respondent (s)

CORAM :

THE HON'BLE MR. D. SURYA RAO : MEMBER (JUDICIAL)

THE HON'BLE MR. M. Y. PRIOLKAR : MEMBER (ADMINISTRATIVE)

1. Whether Reporters of local papers may be allowed to see the Judgement ? *NO*
2. To be referred to the Reporter or not ? *NO*
3. Whether their Lordships wish to see the fair copy of the Judgment ? *NO*
4. Whether it needs to be circulated to other Benches of the Tribunal ? *NO*
5. Remarks of Vice Chairman on columns 1, 2, 4
(To be submitted to Hon'ble Vice Chairman where he is not on the Bench)

(DSR)
M(J)

(MYP)
M(A)

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : NEW BOMBAY
BENCH : AT NEW BOMBAY :

R.P.No.36/90

in

O.A.No.168/90.

Date of Judgment: 25-9-1990

Between:-

P.T.Marathe

...Applicant

AND

UNION OF INDIA Represented by

1. The Secretary,
Government of India,
Ministry of Defence,
New Delhi - 11
2. The Director General,
Quality Assurance,
Department of Defence Production,
New Delhi - 110 011.
3. The Director,
Quality Assurance,
Department of Defence Production,
Ministry of Defence,
New Delhi.
4. The Controller of Quality Assurance,
Controllerate
Kirkee, PUNE - 411003.

...Respondents

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Counsel for the Applicant : Shri S.B.Repale

Counsel for the Respondents : Shri S.R. Atre

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CORAM:

HON'BLE SHRI D.SURYA RAO : MEMBER (JUDICIAL)

HON'BLE SHRI M.Y.PRIOLKAR : MEMBER (ADMINISTRATIVE)

(Order of the Bench passed in circulation by
Hon'ble Shri D.Surya Rao, Member (J)).

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This is an application for review of our order
dated 11-6-90 in Original Application No.168/90. The

The applicant is a retired employee under the 4th Respon-
dents unit had filed the application claiming that he had

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a right to continue in service up-to the age of 60 years and that his being compelled to retire at the age of 58 years is illegal. He sought a consequential direction that he should be paid pay and allowances from 1-3-90 to the date on which he would attain 60 years of age. The facts relating to the application have already been set out in detail in our order dated 11-6-90 in the Original Application. The main plea of the applicant was that he originally belongs to Defence Science Service^{and}, that this service was trifurcated into three different organisations. The employees of one of the trifurcated organisations, namely Defence Research Development Services (DRDS) were given better conditions of service namely being permitted to retire at the age of 60 years, whereas the applicant who came to the Defence Quality Assurance Services was not given this benefit. Apart from the question of discrimination under article 14, in support of the plea that the applicant^{was} also eligible for retirement at the age of 60 years, reliance is placed upon the Full Bench decision^{rendered by A} of the Hyderabad Bench of the Tribunal, Hyderabad Bench, ATR 1988(2) CAT 37, rendered in K.T.Sastry Vs. Union of India & others, and the decision of the Supreme Court rendered in appeal there from and reported in 1990(1)Scale 7 (Union of India Vs. K.T.Sastry). By our order dt.11-6-90 we had held that the decision in K.T.Sastry's case would not apply to the case of the applicant, that the decision

contd..3.

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which would apply to the applicant is ^{line A} rendered by the Bangalore Bench of the Tribunal ~~rendered~~ in Gopal Krishna's case. The contentions raised on behalf of the applicant including the contention of discrimination and violation of Article 14 and 16 of the constitution were accordingly rejected. That is the decision which is now sought to be reviewed in this Review Application. The main contention put-forth now is that the Tribunal/in ^{erred} not applying the decision of the Full Bench rendered by the Hyderabad Bench of the Tribunal and ^{by} the Supreme Court in K.T.Sastry's case. It is further sought to be contended that the reliance placed by us on the Bangalore Bench of the Tribunal in Gopal Krishna's case was irrelevant and wrong. It is ^{also} further stated that the findings of the Tribunal that the Group 'C' or Class-III officers has never formed as homogenous group is not correct. It is further contended that the observations of the Tribunal that the applicant should have questioned the ~~vires~~ of the rules framed in the year 1979 or 1982 is not correct, in view of the decision of the Supreme Court reported in 1975(1) SLR 153, 1985(2) SLR 248 and AIR 1987 SC 179.

2. Thus in all respects the Review Petition seeks to contend that a wrong decision was rendered by this order dated 11-6-90 in O.A.No.168/90.

3. In our view these contentions are beyond the

contd..4.

scope of a Review Petition. The scope of a Review Petition has been considered by the Supreme Court on more occasions than one. In AIR 1979 Supreme Court 1047 (A.T.Sharma Vs. A.P.Sharma & others) the Supreme Court has held as follows :-

"But there are definite limits to the exercise of the power of review. 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 could not be produced by him at the time when the order was made; it may be exercised where some mistake or error apparent on the face of the record is found; it may also be exercised on any analogous ground. But it may not be exercised on the ground that the decision was erroneous on merits. That would be the province of a court of appeal."

Again in AIR 1975 SC 1500 (Chandra Kanta Vs. Sk.Habib), the Supreme Court held as follows :

"The review of a judgment is a serious step and reluctant resort to it is proper only where the glaring omission or patent mistake or like grave error has crept in earlier by judicial fallibility...."

In the instant case before us, the review application does not disclose any such glaring omission or patent

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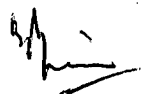
or grave mistake and on the other hand, as stated supra, the grounds raised seek to attack the order under review on the ground that wrong assumptions and conclusions have been arrived at ^{under a} or ^{to} re-agitate matters already argued at length. The power of the Tribunal to review its orders is akin to the power under Order 47, Rule 1 of C.P.C. and in the instant case none of the grounds specified in the said provision would be applicable.

4. The applicant has also sought to contend that some of the contentions raised in the written arguments have not ^{been} dealt with or reflected in the judgment. ^{He} is not ^{specifically} as to what those contentions are. In any event our judgment ^{has} ^{is} dealt in detail with all the relevant points in issue raised by the applicant and he could not therefore have any grievance on the ground that some averments have not been dealt with.

5. We accordingly find no valid grounds for reviewing our order dt. 11-6-90. The Review application is dismissed. No costs.



(D. SURYA RAO)
Member (J)



(M.Y. PRIOLKAR)
Member (A)

Dated : 25th September, 1990.