

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH

O.A. NO: 790/91

199

T.A. NO:

DATE OF DECISION 3.2.92

V.J.Lotankar

Petitioner

Mr. R.R.Dalvi

Advocate for the Petitioners

Versus

Union of India & Ors.

Respondent

Mr.R.K.Shetty

Advocate for the Respondent(s)


CORAM:

The Hon'ble Mr. Justice U.C.Srivastava, V/C

The Hon'ble Mr. M.Y.Priolkar, M(A)

1. Whether Reporters of local papers may be allowed to see the Judgement ? N
2. To be referred to the Reporter or not ? N
3. Whether their Lordships wish to see the fair copy of the Judgement ? N
4. Whether it needs to be circulated to other Benches of the Tribunal ? N

mbm*


(U.C.Srivastava)
V/C

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH, BOMBAY

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Original Application No.790/91

V.J.Lotankar, Statistical Assistant,
Office of the Regional Provident Fund
Commissioner, Bhavishya Nidhi Bhavan,
Bandra (East), Bombay 400 051.

... Applicant

V/s

Union of India & Ors.

... Respondents

CORAM : Hon'ble Vice-Chairman, Shri Justice U.C.Srivastava
Hon'ble Member (A), Shri M.Y.Priolkar

Appearances:

Mr. R.R.Dalvi, Advocate
for the applicant and
Mr. R.K.Shetty, Counsel
for the respondents.

ORAL JUDGMENT:

Dated : 3.2.1992

(Per. U.C.Srivastava, Vice-Chairman)

The applicant, against his reversion order from the post of Statistical Assistant dated 12.11.91 which was passed within three years from the date of his appointment, approached this Tribunal. Vide order dated 29.11.1988 the applicant who was working in the office of Regional Provident Fund Commissioner was appointed in the post of Statistical Assistant. His appointment was to be regulated in accordance with the order of the Ministry of Finance, Department of Expenditure O.M.No.F.10(24)E.III/60 dated 4th May 1961, as amended from time to time. The terms of the appointment was that the said appointment shall not confer any right or claim for regular appointment to the post of Statistical Assistant on a future date nor it will confer any right for claiming any preference for getting selecting to the said post and he will be liable to reversion at any time without assignment of any reason. It appears that prior to the appointment of the applicant

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even recruitment rules for the post of Statistical Assistant was framed with the approval of the Central Government. In the rules the method of recruitment is by transfer on deputation and the source of recruitment is from amongst officers of the employees of Provident Fund Organisation serving in the respective regions/offices failing which officers of the Central Government who possesses particular qualification as prescribed in the recruitment rules. Regulations were also framed in exercise of the powers by Sub-Section (7) of Section SD of the Employees' Provident Funds and Miscellaneous Provisions Act 1952. The regulation provides that the period of deputation including period of deputation in another ex-cadre post held immediately preceding this appointment in the same organisation/department shall ordinarily not exceed three years. The respondents have challenged the claim of the applicant stating that in view of the recruitment rules and the regulations referred to above which has got the force of rule the applicant has been reverted. The applicant was bound by the terms of the appointment in which it was clearly provided that it will not confer any right on him and that he ~~will~~ can be reverted at any point of time in view of the rules referred to above that the post which is an ex-cadre post a person gets an appointment for a period of three years and beyond that the appointment is not being given. The applicant has not challenged this contention except that there cannot be any deputation in the same department. Obviously it was altogether a technical post and this post is given to the persons working in the ministerial cadre and as such it has become a deputation post that is why the provision for the same finds place in the O.M. as well as in the resolution referred to above. In view of

the fact that the applicant was specifically told that of course the appointment will not confer any right and he can be reverted from the post the applicant has got no right to challenge the said reversion order more so when it cannot be said to be arbitrary or that it was intended in malafide or that in order to promote some other person in violation of the rules he has been reverted. As such we do not find any merit in this case and the application is dismissed with no order as to costs.



(M.Y. Priolkar)
Member(A)



(U.C. Srivastava)
Vice-Chairman

v/-

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH

REVIEW PETITION NO.63/92

IN ORIGINAL APPLICATION : 790/91

SHRI V.J.LOTANKAR

....APPLICANT

V/s

Regional Provident fund Commissioner
Maharashtra and Goa, Bombay and 2 ors.Respondents

CORAM : HON'BLE JUSTICE MR. U.C. SRIVASTAVA, Vice-Chairman

HON'BLE MEMBER SHRI M.Y.PRIOLKAR, MEMBER (A)

PER TRIBUNAL

10/4/92


This Review Application has been filed by the applicant against our order/judgement dated 3rd February 1992 dismissing the Original Application filed by the applicant against his reversion order. The applicant has come forward with the averments that the judgement be reviewed, by filing the review application. The applicant has filed this review application on quite large number of grounds and prayed that this application be granted.

The scope of the review application is limited and it does not mean- rehearing of the argument or again go on merit with the aid of cases cited or not cited. Taking of a new ground in a review application for recalling a judgement is not permissible, and the ground is like challenging to the statutory rules itself.

The applicant by way of this Review application has challenged the validity of the rules which was not challenged earlier in the original application. According to the applicant he challenged his reversion order on the two grounds, the first is that the recruitment rules itself are faulty and therefore inoperative and untenable and second

that it was not a case of deputation but of promotion. So far as the rules are concerned, there was no such challenge before us and whatever challenge was made has been considered. The second plea of the applicant regarding the deputation or promotion has also been considered by us in our judgement. We have taken into consideration the terms of the appointment letter ~~and~~ which provides that they can be reverted at any point of time. The applicant challenged in this behalf when the case was heard. The only challenge which was made ^{as} ~~and~~ evidenced ^{was} from the judgement [^] that there can not be any ^u deputation in the same department. There is no apparant error on the fact which has been pointed out as such or that there is any discovery of new or important evidence which after due ~~d~~éligeⁿce could not be ~~b~~rought to our knowledge by the applicant during the hearing or there is no ~~any~~ sufficient reason for recalling our judgement has been pointed out. The review application has got to be dismissed and it is ~~not~~ necessary to consider the cases or reasoning which have been given again by the applicant or the grounds reiterated or added or elaborated by the applicant in support of his plea, which was raised before us when the case ^{was} ~~case~~ argued or the cases, which now has been referred to ~~by~~ in his review application and accordingly the Review petition ~~has~~ got no force and got to be rejected and it is rejected.


(M.Y. PRIOLKAR)
MEMBER(A)


(U.C. SRIVASTAVA)
Vice-Chairman