

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH, BOMBAY

R.P.NO. 100/94
in

OA.NO. 385/92

Shri R.Sampatkumar
v/s.

... Applicant

Union of India & Ors.

... Respondents

CORAM: Hon'ble Member (J) Shri B.S.Hegde

Tribunal's Order by Circulation

DATED 1.9.94

(PER: B.S.Hegde, Member (J)

This review application has been filed seeking review of the judgement dated 5.7.1994 in OA.NO. 385/92.

2. The OA. was disposed of keeping in view the ratio of judgement of Hyderabad Bench and also a decision of the Bangalore Bench and also in view of the withdrawal of the scheme vide Respondents' letter dated 5.9.1972. The OA. was disposed of on merits by stating that the benefit of extending the benefit of advance increments as envisaged vide letter dated 4.2.1969 to the applicant cannot be extended and accordingly his claim was not supportable as the scheme in question has ceased to have any force after 5.9.1972.

3. In this review application, the petitioner is seeking review of the judgement on the following grounds: (1) The scheme of advance increments was withdrawn only in cases of Non-Gazetted Technical/Scientific posts where a Degree in Engineering or an equivalent qualification is a minimum qualification for appointment to that posts. The scheme was not withdrawn on 5.9.1972 in respect of the applicant who was holding the post of Supdt. E/M Grade II, for which the essential qualification was Diploma in Engineering.

(2) The Tribunal has erred in stating that the scheme has been withdrawn by the letter dated 5.9.1972 on the recommendation of III Pay Commission. The recommendations of III Pay Commission became effective from 1.1.1973 and hence the question of withdrawal of scheme of advance increment on a date prior to 1.1.1973 cannot arise. The withdrawal of scheme was restricted only to cases where a Degree in Engineering was a minimum qualification. Since the applicant was holding Supdt. E/M Grade II post at the time when he passed A.M.I.E., the minimum qualification needed was Diploma in Engineering and not a Degree in Engineering. Thus the scheme of advance increment was not withdrawn for applicant while he held the post of Supdt. E/M Grade II.

4. Under Order 47 Rule 1 C.P.C., a decision/judgement/order can be reviewed only if an error apparent on the face of the record, new material or evidence is discovered which was not within the knowledge of the parties or could not be produced by that party at the time the judgement was made, despite due diligence; or for any sufficient reason construed to mean analogous reason.

5. A perusal of the review application revealed that none of the reasons warrant any review.

6. The main contention of the applicant in this review application is that the ~~criteria~~ laid down by departmental letter dated 5.9.1972 is the date of recruitment and not ^{date of} ~~passing~~ of Section 'A' and Section 'B' of A.M.I.E. Since the applicant was recruited prior to 5.9.1972, and he is covered by the benefit given by the President in his letter dated 15.4.1981. The said contention is not tenable in view of what is stated in departmental letter dated 15.4.1981 wherein it is clearly envisaged that :-

"the benefit of three advance increments allowed with effect from 1.12.68 to non-gazetted Technical/Scientific civilian employees paid from the Defence Services Estimates on their acquiring degree in Engineering was withdrawn in respect of non-gazetted Technical/Scientific posts where a degree in Engineering or an equivalent qualification is a minimum qualification prescribed for appointment to the post vide Ministry's letter dated 5.9.1972."

It also makes specific that the benefit will not be admissible to those recruited after 5.9.1972. Admittedly, the applicant has passed the A.M.I.E. subsequent to the withdrawal of the scheme, i.e. passed Section 'A' examination on 24.2.1975 and Section 'B' ~~on~~ 31.7.1977, by which time the scheme was ceased to be in existence.

7. It is well settled that the scope of the Review Application is very limited and a Review Application is maintainable only if there is an error apparent on the face of the record or some new evidence has come to notice etc. Review Application cannot be utilised for re-arguing the case traversing the same ground. In the light of the above, I do not find any new facts brought to my notice. In view of the facts and circumstances of the case, I do not see any merit in the Review Application and the same is rejected in Circulation.


(B.S. HEGDE)

MEMBER (J)

mrj.