

CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH

OPEN COURT / PRE DELIVERY JUDGMENT IN OA

RP 84/97
11/56, 94

Hon'ble Vice Chairman / Member (J) / Member (A)
may kindly see the above Judgment for
approval / signature.

M. K. Kothari

V.C. / Member (J) / Member (A) (K/S)

Hon'ble Vice Chairman

7/1/98

Hon'ble Member (J) ✓

R. G. M.

Hon'ble Member (A) (K/S)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH 'GULESTAN' BUILDING NO:6
PRESGOT ROAD, MUMBAI:1

Review Petition No. 88/97 in
Original Application No. 1156/94

Friday the 2nd January 1998.

CORAM: Hon'ble Shri B.S. Hegde, Member (J)
Hon'ble Shri M.R. Kolhatkar, Member (A)

Dr. S.S.Srivastava. ... Applicant.

Applicant in person.

Union of India and others. Respondents.

By Advocate Shri K.R. Yelwe for Shri V.S. Masurkar.

O R D E R

(Per Shri M.R. Kolhatkar, Member (A))

In this Review Petition the original applicant has sought for review of our order dated 5.9.97. In our order, we had basically granted the relief to the applicant of promotion to the Senior Time Scale of I.F.S. with effect from 1.4.93 and promotion to Junior Administrative Grade with effect from 1.4.96 and consequential relief including arrears restricted to one year prior to the date of filing of the O.A.

2. In the Review Petition, the applicant has contended that there are errors apparent on the face of the and /order of the Tribunal/ therefore prayed as follows:

1. Direct the Respondent No.1 to confirm the applicant in the IFS w.e.f. 6.7.1990 and accordingly modify its notification No.18012/11/92-IFS-II dated 25.9.1995 and the respondent No.1 be directed to communicate the decision confirming the applicant in the IFS w.e.f. 6.7.1990.

2. Direct the respondents to promote the applicant to Senior-Time-Scale w.e.f. 1.4.1991 to post the applicant as Deputy Conservator of Forests on a Cadre Post.
3. Direct the respondents to promote and fix the applicant in Junior Administrative Grade of pay of IFS w.e.f. 1.1.1996.
4. Direct the respondents to pay to the applicant all arrears of pay and allowances arising out of such retrospective appointment in Senior-Time-Scale w.e.f. 1.4.1991 and fixation of pay in Junior Administrative Grade w.e.f. 1.1.1996.

3. As we were of the view that the Review Petition should be decided only after hearing both the parties, Notice was issued on 20.10.97 on which date the learned counsel for the respondents (Central Government and State Government) sought time to file reply.

Almost 8 weeks time was granted. When the matter came up for hearing on 19.12.97, the learned counsel for the respondents sought further time to file reply. Although the time granted earlier was adequate we had granted further two weeks' time to file a reply. When the matter came up for hearing today, proxy for counsel for the respondents only stated that the reply was not ready and the counsel for the respondents is out of town. Under the circumstances we hold that the respondents have forfeited their right to file a reply, not having availed of the ample opportunity already given. We have proceeded to decide the Review Petition on the basis of the available materials and the arguments advanced by the applicant in person.

4. In our view the order of confirmation (1.4.92) and grant of promotion to the Senior Time Scale w.e.f. 1.4.93 may be erroneous as contended by the applicant, but certainly no case is made out that there is any error apparent on the face of the record or any other material sufficient to warrant a review of the same. We, however note that the order directed the respondents to promote the applicant to Junior Administrative Grade w.e.f. 1.4.96. It is contended in this connection that the error apparent on the face of the record here is on account of Tribunal's ignorance of O.M. No. 11030/22/91-AIS(II) dated 16.3.93 which is enclosed as Annexure A-4 to the Review Petition (and which was available at Annexure L VIII of the O.A.) According to this O.M., the officers would be allowed the Junior Administrative Grade on completion of 9 years of service and since the applicant has completed 9 years of service in 1996, he is entitled to promotion to Junior Administrative Grade from 1.1.96 and not from 1.4.96 as directed by us in our judgement dated 5.9.97. We direct correction of the date accordingly.

5. The Review Petition is therefore partly allowed to the limited extent indicated above. We were told that the respondents have not complied with the order of the Tribunal dated 5.9.97, though time of two months was long past. We, therefore, direct that the order dated 5.9.97 as modified by the present order should be complied with within a month of the date of communication of the present order. The Review Petition is disposed of with the above directions.

M.R. Kolhatkar

(M.R. Kolhatkar)
Member(A)

B.S. Hegde

(B.S. Hegde)
Member(J)