

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,  
MUMBAI BENCH, MUMBAI.

ORIGINAL APPLICATION NO.341/98.

Friday, this the 29th day of October, 1999.

Coram: Hon'ble Shri Justice R.G.Vaidyanatha, Vice-Chairman,  
Hon'ble Shri D.S.Baweja, Member(A)

Mafiul Hussain IFS,  
Dy. Conservator of Forest  
(Working Plan),  
Near Civil Court, Dahanu,  
District Thane - 401 601.

...Applicant.

Vs.

1. Union of India, through  
the Secretary, Department of  
Forest, Ministry of Environment  
& Forest, Paryavaran Bhavan,  
CGO Complex,  
Lodhi Road,  
New Delhi 110 003.

2. State of Maharashtra, through  
The Chief Secretary,  
Govt. of Maharashtra,  
Mantralaya,  
Mumbai - 400 032.

3. The Principal Secretary (Forest),  
Revenue and Forest Department,  
Govt. of Maharashtra,  
Mantralaya,  
Mumbai - 400 032.

...Respondents.

(By Advocate Mr.V.S.Masurkar)

: O R D E R (ORAL) :

(Per Shri Justice R.G.Vaidyanatha, Vice-Chairman)

This is an application filed by the applicant challenging his non-promotion as Conservator of Forest. He wants a promotion as Conservator of Forest from the date his juniors got promotion. The Respondents have filed their reply opposing the application.

...2.

To day, the case was called out in the morning for hearing regarding admission, but the applicant and his counsel remained absent. The case was passed over and now at 3.15 p.m. when the case was called for hearing neither the applicant nor his counsel is present. We have heard Mr.V.S.Masurkar, the learned counsel appearing on behalf of the Respondents.

2. As far as the applicants grievance about non-promotion in 1995 when the juniors came to be promoted is concerned, it is stated that the DPC had considered the case of the applicant for promotion, but he was not found fit for promotion on the basis of his service records. Every officer has a right to be considered for promotion, but has no right that he should be promoted. In this case, the applicant's case has been considered for promotion, but on the basis of his service records he was not found fit for promotion, that is how his seniors came to be promoted in February, 1995.

Though the OA was filed in the Registry on 6.7.1996, since there was some office objections the OA was not listed. The applicant or his counsel took no steps to remove the office objections and getting the OA registered and placed for admission. It is only in 1998, the OA came to be registered and now placed for admission.

3. Since the applicant's case has been considered by the DPC and he was not found fit for promotion, nothing can be done. It is further seen that, subsequently in 1997 when the DPC met again, it considered the case of the applicant and found him fit for promotion and he has now promoted as a Conservator of Forest

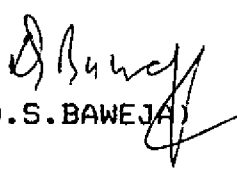
....3.




in 1997. Therefore, the applicant will not suffer anything since he has now been promoted.

In the circumstances of the case, we find no merit and is liable to be rejected.

4. In the result, the application is rejected at the admission stage. No costs.

  
(D.S. BAWEJA)

MEMBER (A)

  
(R.G. VAIDYANATHA)

VICE-CHAIRMAN

B.

CENTRAL ADMINISTRATIVE TRIBUNAL  
MUMBAI BENCH

REVIEW PETITION NO.: 1 of 2000

IN

ORIGINAL APPLICATION NO.: 341 of 1998.

Dated this Friday, the 6th day of October, 2000.

CORAM : Hon'ble Shri B. N. Bahadur, Member (A).

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

Mafiul Hussain, I.F.S., ... Applicant.  
(By Advocate Shri S. N. Pillai)

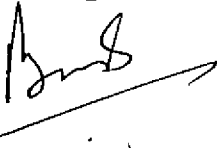
V/s.

Union of India & Ors. ... Respondents.  
(By Advocate Shri V. S. Masurkar)

TRIBUNAL'S ORDER

Learned Counsel on both sides have been heard. At the initial stage, Shri V. S. Masurkar points out that he has not received a copy of the M.P. However, as a copy was provided for perusal in the Court, this objection stands withdrawn by him.

2. We have heard Shri S. N. Pillai on the Review Petition filed. One of his main ground is explained in para 7 of the Review Petition. Here he quotes the Roznama Order dated 17.09.2000 and takes the plea that the O.A. was decided without a copy of the reply of Respondents being served on him. We have heard the Learned Counsel, Shri V. S. Masurkar also in the matter who argues that this cannot be a ground for Review and claims that the reply was served on him and in any case, when the case was decided finally on merits, this cannot be an acceptable argument. He reiterates that this is also not a matter which can be agitated in a Review Petition.



3. It is seen from the order in the O.A. dated 29.10.1999 that the orders have been passed on merits, albeit in the absence of the Applicant/his Learned Counsel. This absence has been noted in the Order. Be that as it may, as is well known, the scope in a Review Petition is very limited. We do not find any error apparent on the face of the record nor is this a case where any new fact has come to light. In the circumstances, the argument taken by the Applicant cannot be accepted and it cannot be an argument in a Review Petition. He may well be aggrieved on the ground that he takes but that cannot be agitated in a Review Petition. It may be a cause for agitating through other means available to him as per law. Hence, the Review Petition is hereby rejected.

8.1.89  
(S. L. JAIN)  
MEMBER (J)

  
(B.N. BAHADUR)  
MEMBER (A).

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06/10/2000  
Order/Judgement despatched  
to Applicant/Respondent (s)  
on 29/10/2000

