

(14)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH
AT HYDERABAD

B.A.No.93/94

in
O.A.No.614/92

Date of Order: 8.12.94

BETWEEN:

Dr.S.R.Gurumukhi.

.. Applicant.

A N D

1. The Secretary to the Govt. of India,
Ministry of Human Resources Development,
(Education Department) Shastry Bhavan,
New Delhi.
2. The Secretary, Union of Public Service
Commission, Dholpur House, Shahajahan
Road, New Delhi.
3. The Director General of Employment &
Training, Ministry of Labour, Shram
Shakti Bhavan, 2 & 4 Rafi Marg,
New Delhi.

.. Respondents.

Counsel for the Applicant

.. Mr.S.Ramakrishna Rao

Counsel for the Respondents

.. Mr.N.R.Devraj

CORAM:

HON'BLE SHRI A.V.HARIDASAN : MEMBER (JUDL.)

HON'BLE SHRI A.B.GORTHY : MEMBER (ADMN.)

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X As per Hon'ble Shri A.V.Haridasan, Member (Judl.) X

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The applicant in the OA has filed this Review Petition seeking a review of the final order passed in the OA on 17.3.94. The OA was filed by the applicant seeking to quash the letter dt. 28.4.92 declining to appoint the applicant as Deputy Educational Advisor (Technical) under the Ministry of Human Resources, inspite of the fact that the applicant was nominated for appointment to that post by the UPSC. In the impugned letter it was mentioned that the competent authority on a verification of the antecedents of the applicant, decided not to accept the recommendation of the UPSC for his appointment. This was challenged in the application on various grounds. On a consideration of the rival contentions taking note of the fact that the applicant was facing a major penalty proceedings under Rule 14 of CCS Rules in his department, the Bench finding no reason for judicial intervention, dismissed the OA. However it was mentioned that in case the OA filed by the applicant for quashing the charge sheet on which the departmental proceedings were pending against him be allowed, it would be open for the applicant to approach the Ministry of Human Resources for considering his case in accordance with the recommendations of the UPSC and then it would be open for the department concerned to consider his case. In this RP the applicant has alleged that the Bench has committed an error apparent on the face of the record, in as much as, it has not taken into consideration the observations expressed

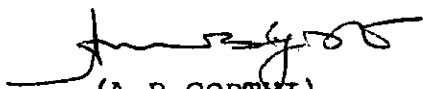
by the Principal Bench of the Tribunal in an almost similar case reported in 1987 ATC 678. According to the Review Applicant the legal position being as observed by the Principal Bench, the view taken by the Bench for rejecting the claim of the applicant is erroneous and therefore that calls for a review of the judgement.


2. We have perused the material papers in the OA, the orders ought to be reviewed, and the review application and we have heard Mr.S.Ramakrishna Rao, learned counsel for the petitioner and Mr.N.R.Devraj, learned standing counsel for the respondents. The sole ground on which the applicant seeks review is, that the Tribunal has taken an erroneous view inspite of the correct legal position having been stated in the rejoinder. At the outset we would like to make it clear that a court or Tribunal having jurisdiction has the jurisdiction to decide rightly and wrongly. If a wrong decision is rendered, the remedy is by filing an appeal and not ^{by} filing a review. The scope of review is very much limited. Let us examine the Principal Bench decision relied on by the review applicant. What was stated in the order of the Principal Bench was that any punishment, short of dismissal from service would not be a disqualification for fresh employment, and that, before appointing a person who is already working under the government to another post by direct recruitment a vigilance is not called for. The view taken by this Bench in this OA is not contrary to that. In the order sought to be reviewed it has been stated that in spite of the recommendations of the U.P.S.C. the appointing authority has the discretion to appoint the candidate or not to appoint him on a proper

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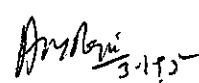
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verification of his antecedents. It was also stated that the decision of the competent authority not to appoint the applicant for the reason that he was, before an order of appointment was issued, found to be facing a major penalty proceedings cannot be faulted. This is in no way contrary to the view expressed by the Principal Bench under citation. No other point has been alleged to show that the order suffered from any infirmity patent or even latent. In the result finding no merits in this petition we reject the same.


(A.B.GORTHY)
Member (Admn.)


(A.V.HARIDASAN)
Member (Judl.)

Dated: 8th December, 1994

(Dictated in Open Court) Dy. Registrar (Judl.) 

Copy to:-

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1. The Secretary to the Govt. of India, Ministry of Human Resources Development, (Education Department), Shastri Bhawan, New Delhi.
2. The Secretary, Union Public Service Commission, Dholpur House, Shahajahan road, New Delhi.
3. The Director General of Employment & Training, Ministry of Labour, Shram Shakti Bhawan, 2&4 Rafi Marg, New Delhi.
4. One copy to Sri. S. Ramakrishna Rao, Advocate, CAT, Hyd.
5. One copy to Sri. K. R. Devaraj, Sr. CGSC, CAT, Hyd.
6. One copy to Library, CAT, Hyd.
7. One spare copy.

Ram/-

In the CAT 114d
at 114d.

Am no. A.V. Hanjani Jm

Am no. A.B. Gadhvi Am.

30/12/94

in

12.12.93

in

20.12.92

Rejected. No order
as to costs.

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