

(27)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH

AT HYDERABAD.

NA 801/93 4

R.P.No. 89/93, in

O.A.No.684/93.

Date of Order : 30/11/93

P.Murugan

.. Petitioner/Applicant

Vs.

1. The Chairman,
Railway Board,
Rail Bhavan,
New Delhi-110001.

2. The Member (Staff),
Railway Board,
Rail Bhavan,
New Delhi-110001.

3. The Secretary (Estt),
Railway Board,
Rail Bhavan,
New Delhi-110001.

.. Respondents/Respondents

Counsel for the Petitioner/
Applicant

:: Shri V.Venkateswara Rao

Counsel for the Respondents/
Respondents

:: Shri K.T.S.Tulsi,
Additional Solicitor General
of India, on behalf of
Shri C.Venkata Malla Reddy,
SC for Railways

C O R A M

Hon'ble Shri A.B.Gorthi : Member(A)

Hon'ble Shri T.Chandrasekhara Reddy : Member(J)

O r d e r

X of the Division Bench delivered by Hon'ble Shri
A.B.Gorthi, Member(A) X

Judgement in O.A.No.684/93 is sought to be reviewed
by means of this Review Petition. An elaborate attempt
has been made to re-agitate the salient issues involved
in the case and to show that had the Respondents disclosed
the true facts of the case we would not have come to

.....2

5/1/94
2

(28)

- 2 -

certain conclusions as we did in deciding the Original Application. Essentially, the issues raised in the Review Petition are ~~three~~ ^{fold}. Firstly, the assertion of the Respondents that the post of Adviser(Staff) is a general post is challenged as incorrect. Secondly, it is contended that the Respondents misled the Tribunal with regard to the non-selection of the Applicant to the grade of Rs.7300-7600 and the selection of Shri V.Viswanathan to that grade. Thirdly, it is asserted that the relevant record should be scrutinised by us to find out the veracity of the aforesaid averments of the Respondents.

2. As the Applicant appeared to disbelieve the Respondents' contention that he was considered but was found not suitable for promotion to the grade of Rs.7300-7600, we examined the relevant file which was made available to us by the Respondents. It is evident therefrom that the case of the Applicant was duly considered by the Selection Committee for promotion to the grade of Rs.7300-7600 but he was not found fit.

3. On the question whether the post of Adviser(Staff) is a cadre post meant to be filled exclusively from amongst the officers of the Indian Railway Personnel Service (I.R.P.S. for short) or a general post, we observed in para 4 of our judgement in O.A.No.684/93 as under:-

"The respondents at the very outset have refuted the applicant's contention that the post of Adviser(Staff) is essentially required to be filled from amongst the officers of the I.R.P.S. only. It has been brought out that the applicant is in the Senior Administrative Grade in the scale of pay of Rs.5900-6700 whereas the next higher posts are in the category of Additional General Managers, Principal Heads of Departments, Chief Administrative Officers(Railways) and Advisers who are all in the scale of pay of Rs.7300-7600. The posts of Additional General Managers and Advisers are not included in any particular

.....3

22/8/94

cadre of service. There are 18 posts of Advisers in the Railway Board. Some posts of Advisers such as Adviser (Mechanical) and Adviser (Electrical) because of the technical nature of duties are filled up from amongst officers empanelled for appointment to grades Rs.7300-7600 and belonging to the respective disciplines only. However, there are other posts like Adviser (Staff), Adviser (Management Service), Adviser (Planning) and Secretary, Railway Board which may be filled up from amongst suitable officers belonging to various Group 'A' services who are working in the scale of pay of Rs.7300-7600 or who are on the select panel for appointment to the scale of Rs.7300-7600. In other words, the following categories of personnel are eligible to be considered for appointment as Adviser (Staff).

(a) Officers of any discipline who are already in the scale of pay of Rs.7300-7600.

(b) Officers of any discipline who are in the select panel for appointment to the scale of pay of Rs.7300-7600.

4. It is now brought out in the Review Petition that in 1990 when the post of Adviser (Staff) fell vacant, Shri P.T.Thiruvengadam who was then working as Executive Director (Staff), Railway Board was detailed to look after the duties of the said post until further orders vide Railway Board's order dt. 12.6.90. It is only thereafter that he was considered for promotion to the grade of Rs.7300-7600 and was finally appointed as Adviser (Staff) vide Railway Board's order dt. 26.7.90. On the basis of this information, which the Applicant claims to have come into possession of, after the judgement in the O.A., it is contended that the post of Adviser (Staff) was meant to be filled up by an eligible member of the I.R.P.S. only. Besides the appointment of Shri P.T.Thiruvengadam, we have noted in para 5 of our judgement that the post of Adviser (Staff) was held held by S/Shri D.P.S.Ahuja, S.Gurusankaran and P.T.Thiruvengadam, all belonging to the I.R.P.S., during the period from 31.10.87 to 6.4.93. At the same time, a reference to the I.R.P.S. (Recruitment) Rules, 1975 would indicate that the post of Adviser (Staff) has not been shown as a promotional post

30

for the members of the I.R.P.S. After examining all these aspects, we came to a conclusion that the post of Adviser (Staff) is a general post as stated by the Respondents. The contentions now raised in the Review Petition dispute the correctness of our decision but fail to bring out any error apparent therein. A fervent plea has been made for the summoning of all the records and for scrutinising the same with a view to see whether the statements made by the Respondents on the important issues involved in this case are factually correct or not. This was stoutly opposed by the Respondents. Our attention has been drawn to an order of this Bench dt. 22.6.93 from which it would be apparent that the Applicant, who filed M.A.No.557/93 seeking production of the relevant record by the Respondents, withdrew the M.A. on his own. Accordingly it is contended that ~~as~~ the Applicant has no justification to once again claim that the record should now be produced before the Tribunal for ^{accept this contention and} examination. We ~~find~~ find no merit in the ~~plea of the~~ Applicant for summoning the relevant record.

5. The Review Petition is replete with re-arguments and re-assertions on issues which were discussed and decided in our judgement in the O.A. We do not intend to ~~delve~~ ^{dwell} into them at any length for the simple reason that they do not bring out any error, patent or latent, in our judgement.

6. Opposing the Review Petition, the learned Additional Solicitor General of India referred to a catena of judgements to show that a review proceeding cannot be equated with the original hearing of the case, and the finality of the judgement delivered by the Tribunal is not liable

2/11/93
g.

(31)

to be reconsidered except where a glaring omission or patent mistake or like grave error has crept in earlier by judicial fallibility. We may, however, refer to (1980) 2 SCC 167 wherein Shri V.R.Krishna Iyer, J (as His Lordship then was) had the occasion to make this cryptic observation:

"A plea for review, unless the first judicial view is manifestly distorted, is like asking for the moon. A forensic defeat cannot be avenged by an invitation to have a second look, hopeful of discovery of flaws and reversal of result."

7. For the above stated reasons we are of the considered view that there is no merit in the Review Petition and the same is liable to be dismissed. It is accordingly dismissed with no order as to costs.

8. As the Review Petition is dismissed, M.A.No.764/93 and M.A.No.801/93 which is for impleading Shri V.Viswanathan as one of the Respondents are also dismissed.

T - (Chandrasekhara Reddy)
(T.Chandrasekhara Reddy)
Member(J).

(A.B.Gorthi)
Member(A).

Dated: 20 Nov., 1993.

Dy. Registrar(Judl.)
30/11/93

br.

Copy to:-

1. The Chairman, Railway Board, Rail Bhavan, New Delhi-001.
2. The Member(Staff), Railway Board, Rail Bhavan, New Delhi.
3. The Secretary(Estt), Railway Board, Rail Bhavan, New Delhi.
4. One copy to Sri. V.Venkateswara Rao, advocate, CAT, Hyderabad.
5. One copy to Sri. C.V.Malla Reddy, SC for Rlys, CAT, Hyderabad.
6. One copy to Library, CAT, Hyd.
7. One spare copy.

Rsm/-

SEK:hp
PXC
21

R.P. 89/93.

O.A. 684/93

TYPED BY

COMPARED BY

CHECKED BY

APPROVED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH : HYDERABAD

THE HON'BLE MR. JUSTICE V. NEELADRI RAO
VICE-CHAIRMAN

AND

THE HON'BLE MR. A. B. GORTHI : MEMBER (A)

AND

THE HON'BLE MR. T. CHANDRASEKHAR REDDY
MEMBER (J)

AND

THE HON'BLE MR. R. RANGARAJAN : MEMBER (A)

Dated: 30/11/1993

ORDER/JUDGMENT:

M.A/R.A/C.A.No. 89/93

O.A.No.

in
684/93

T.A.No.

(W.P.)

Admitted and Interim directions
issued.

Allowed.

Disposed of with directions.

Dismissed.

Dismissed as withdrawn.

Dismissed for default.

Rejected/Ordered.

No order as to costs.

Central Administrative Tribunal
DESPATCH
30 DEC 1993
HYDERABAD BENCH.