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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH, JAIPUR.

R.A.No.55/1995

Date of order: 18.10.1995

R.K.Rathore

: Applicant

Vs.

Union of India & Anr.

: respondents

CORAM:

Hon'ble Mr.O.P.Sharma, Member(Adm.)

Hon'ble Mr.Ratan Prakash, Member(Jud1)

PER HON'BLE MR.O.P.SHARMA, MEMBER(ADM.).

This Review Application has been filed by Shri R.K. Rathore, who was the applicant in O.A.No.66/91 which was disposed of by the Tribunal vide order dated 28.6.1995. The Registry has pointed out that the applicant has not made any application for condonation of delay in filing the Review Application. However, in the review application, the applicant has stated that copy of the orders of the Tribunal was received by him on 21.7.1995, after he had applied for the same. The Review Application has been filed on 21.8.1995. In the circumstances, we consider the Review Application was having been filed in time.

2. In the O.A, the prayers of the applicant was that he should be treated as having been appointed as Sr.Estimotor/Sr. Draftsman, scale Rs.425-700(R) to which post he was given regular promotion by order dated 29.10.1975. He had further prayed that his scale of pay in the said post would be Rs.425-700(R) which was equated with scale Rs.1400-2300 under the 1986 Rule relating to fixation of pay. He had assailed the action of the respondent in treating the applicant as having been appointed to the post of Draftsman/Estimotor scale Rs.330-560(R) which was equated with scale Rs.1200-2040.

3. The Tribunal in its order came to the conclusion that the applicant was placed in the scale of pay Rs.330-560 by order dated 8.12.1981 and that this was the scale of pay held by the

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applicant on 31.12.1985 and therefore, fixation of his pay in the corresponding scale Rs.1200-2040 was correctly made as on 1.1.1986. The Tribunal found no merit in the application and it was, therefore, dismissed with no order as to costs.

4. Alongwith the present Review Application, the applicant has filed copies of pay slips which according to him show that he was placed in the scale of pay Rs.1400-2300(RP) for the last so many years and that he had been drawing pay in the said pay scale. He was entitled to get promotion either in the avenues available to the Tracer or to a Draftsman, having been appointed to the post of Tracer in 1956. His reversions during the intervening period were incorrect. He has relied upon the order of his retirement in which it is stated that he was holding the post of Sr.Estimater at the time of his retirement (Annx.RP-2). The post of Sr.Draftsman and Sr.Estimater are equivalent. He was, therefore, entitled to get pension on the basis of the post which he was holding at the time of retirement and the respondents have wrongly computed his pay in the scale of Rs.1400-2300 while the scale of Sr.Draftsman and Head Draftsman is Rs.1600-2660. The applicant has crossed Efficiency Bar and a certificate to this effect was issued on 5.9.1976. According to the applicant, he had presented the said certificate as Annx.A12 alongwith an additional affidavit in connection with his O.A. According to him, the Tribunal had erred in not taking into account Annx.A12 while disposing of the O.A. Efficiency Bar is crossed when a person is regularly promoted to a post or a pay scale. He has therefore, prayed that the order dated 28.6.95 is required to be reviewed.

5. Photo copies of the so called pay slips at Annx.RP-1 filed by the applicant do not at all show in which scale of pay the applicant was placed at the time of his retirement. We have carefully checked-up our record and find that there is no

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additional affidavit filed by the applicant on record and there is no Annex.A12 with the O.A. or with any additional affidavit or any other application. Thus, there is no record to suggest that the applicant was in the scale of pay in which he claims to have been placed at the time of his retirement nor is there any evidence to show that he had crossed Efficiency Bar in any particular scale of pay. The Tribunal, after hearing both the parties and going through the material on record had given a categorical finding that there was no evidence to show that the applicant had been placed in any scale of pay higher than Rs.330-560(R) of which the equivalent scale was Rs.1200-2040 w.e.f. 1.1.1986. The Tribunal has already dealt with in para 7 of its order the applicant's plea regarding the pension payment order, describing him as Head Draftsman and had not found this plea as tenable for the purpose of the finding that he was enjoyed the scale of pay Rs.1400-2300 at the time of his retirement or earlier. The applicant in the Review Application has virtually prayed that the Tribunal should reappreciate the evidence and come to a different conclusion from the one arrived at earlier while passing the order dated 28.6.1995. An R.A. cannot be filed for seeking a review of the findings given on merits which would entail reappreciation of the evidence already considered by the Tribunal. This R.A. is not entertainable in view of the provisions of Order XXXVII Rule 1 of the Code of Civil Procedure.

6. Accordingly, the Review application is dismissed in limine.



(Ratan Prakash)

Member(Judl)



(O.P. Sharma)

Member(Adm.).