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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: JAIPUR BENCH
J A I P U R.

R.A.NO. 61/95

Date of order: 1.10.1996

in
O.A.No. 834/92

Harpal Das

: Applicant

vs.

Union of India & another : Respondents

Shri Harpal Das, the applicant in person
Shri S.S. Hasan, counselfor for the respondents

CORAM:

HON'BLE SHRI O.P.SHARMA, MEMBER (ADMINISTRATIVE)
HON'BLE SHRI RATAN PRAKASH, MEMBER (JUDICIAL)

ORDER

PER HON'BLE SHRI O.P.SHARMA, MEMBER (ADMINISTRATIVE)

In this review application Shri Harpal Das has sought a review of the order dated 15.12.1994 passed by the Tribunal in OA No.834/1992, Harpal Das vs. Union of India and others. He has prayed that the order passed on 15.12.1994 may be re-considered for the reasons given by the applicant in the review application and thereafter necessary orders may be passed on merits for granting justice to the applicant.

2. As stated above, the Tribunal's order of which review has been sought was passed on 15.12.1994. The review application has been filed on 17.7.1995. The applicant has himself admitted that the Tribunal's order was received by him sometime in December, 1994. Therefore, there is a delay of more than six months in filing the review application. The respondents have taken objection to the review application on the

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ground that it is barred by limitation. The applicant has filed a misc. application, No. 483/95 seeking condonation of delay in filing the review application. In this application the applicant has stated, inter alia, that he has been suffering from heart disease for many years which restricted his movement between the period from January to July, 1995 on the advise of the Doctor. Therefore, there was delay in filing the review application. Considering the circumstances of the case and the reasons given by the applicant, we condone the delay in filing the review application. Considering the circumstances of the case and the reasons given by the applicant, we condone the delay in filing the review application and proceed to deal with the review application on merits. The M.A. stands disposed of.

3. In the C.A. No. 346/90, re-numbered as 834/92 on receipt from Jodhpur Bench to this bench of the Tribunal, the applicant had prayed that the respondents may be directed to treat the applicant as promoted on the upgraded post of J.S.S. w.e.f. 1.1.1984 with all consequential benefits and seniority. The Tribunal in its order dated 15.12.1994 while disposing of the CA had observed that the A.C.Rs of the applicant for the years 1982, 1983 and 1984 were adverse. The Tribunal, therefore, upheld the action of the respondents in not granting promotion to the applicant on the ground that he was not fit for promotion.

4. In the review application, the main ground of the applicant is that while the

respondents claimed to have communicated the adverse remarks for the year 1984 to the applicant by letter dated 8.8.1984, the said letter was not delivered to the applicant and therefore this claim of the respondents regarding communication of the adverse remarks by communication dated 8.8.1984 is false. He has added in the review application that the adverse A.C.R. for the year 1984 was communicated to him by letter dated 12.4.1985 and it appears that there is fabrications in the A.C.R. communicated to the applicant and parts thereof have been written by different persons and some do not bear the signatures of any authority. If these facts had been considered by the Tribunal while passing the order dated 15.12.1994, the applicant would have been granted necessary relief.

5. During the arguments, the applicant has reiterated these points.

6. We have perused the O.A. filed by the applicant in respect of which the order dated 15.12.1994 was passed. In the O.A. also the applicant had taken the plea that the adverse remarks in the A.C.R. for the year ending on 31.3.1984 were not communicated to him by letter dated 8.8.1984. Since according to the applicant the adverse remarks for the year 1984 or for the year 1983-84 had not been communicated to him, the respondents could not have relied upon the adverse entries in the said A.C.R.s for the purpose

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of coming to the conclusion that he was not entitled to promotion w.e.f. 1.1.1984 on the ground that there were adverse entries in the A.C.R. of that year.

7. We have considered the matter carefully. However, the applicant has himself admitted in the review application that the adverse entries were communicated to him by letter dated 12.4.1985 i.e. Annexure A-15 to the O.A. The applicant also submitted a representation against the said communication of adverse entries as stated in para 4.16 of the O.A. Thus even though the communication of adverse entries may not have been made by letter dated 8.8.1994, it was admittedly made by letter dated 12.4.1985. Thus it's not a case where the Tribunal took into account while passing the order dated 15.12.1994 adverse A.C.R.s which have not been communicated to the applicant and on which the applicant's representation had not been sought or had not been made. The jurisdiction of the Tribunal in deciding a review application is particularly circumscribed. The Tribunal can review an order passed earlier if amongst others there is a mistake apparent from the record. The applicant seems to be claiming that there has been a mistake apparent from the record in as much as the A.C.R. for the year 1984 was treated as adverse by the Tribunal although it had not even been communicated to the applicant. We find that there has been no such mistake on part

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of the Tribunal. There is no other ground to justify review of the order passed in the OA and the case does not fall within the scope of Order XXXVII Rule 1 of the Code of Civil Procedure. The review application is dismissed.


(RATAN PRAKASH)
MEMBER (J)


(O.P. SHARMA)
MEMBER (A)