

( SEE RULE -4 )

CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH  
GUWAHATI

....

ORDER SHEET

Original Application No.:

Misc. Petition No.:

Contempt Petition No.:

Review Application No.:

6/02 in O.A.29/02

Applicant (s) P. K. Chandhury

Respondent (s) H. C. T. Sons

Advocate for the Applicant (s) Mr. S. Ali, Mrs. K. Chettri

Advocate for the Respondent(s) Miss Rakhi Pathak

Mr. A. Deb Roy,  
Sr. C.G.S.C

Notes of the Registry

Date

Order of the Tribunal

This Review application 5.11.02  
has been filed by the  
Counsel for the petitioner  
against the judgement  
and order dt. 5.6.2002  
passed by this Hon'ble  
Tribunal in O.A.29/02

1m

13.11.

List on 13.11.02 alongwith  
M.P.No.139 of 2002 for orders.

Vice-Chairman

Due to Circuit Sitting at Silvassa,  
the cases are adjourned to 27.11.2002.  
By  
A. K. Roy

Laid before the  
Hon'ble Court for final  
order.

27.11.2002

Put up before the appropriate  
Bench. List on 4.12.2002.

Vice-Chairman

for Section Officer

pk

4.12.2002

Heard Mr.S.Ali, learned Sr.counsel for the applicant assisted by Ms.R.Pathak, learned counsel for the applicant pressing the application for review of the judgment and order dated 5.6.2002 passed by the Tribunal in O.A.29/2002. The learned Sr.counsel submitted that the Tribunal in dismissing the application overlooked the essence of the matter, so much so, the applicant also secured the bench mark and when there was vacancy it was incumbent on the authority to promote the applicant to the higher post. The learned Sr.counsel submitted that overlooking those aspects of the matter amounted to error apparent on the face of the record.

We have also heard Mr.A.Deb Roy, learned Sr.C.G.S.C. for the respondents. On consideration of materials on record, we are of the opinion that by this application the applicant has sought for review of the order of the Tribunal on the ground that judgment passed by the Tribunal is erroneous. We feel if the order is not in conformity with law or otherwise there are some flaws, it can only be corrected in a higher forum. The power of review is confined to only in the cases covered by Order 47, Rule 1 CPC i.e. error apparent on the face of the record or for any other sufficient reasons as well as on discovery of facts, which the applicant could not place before the Tribunal when the order was passed despite due diligence.

Contd.

Note of the Registry

Date

Order of the Tribunal

Contd.

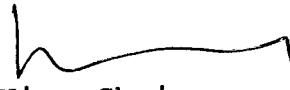
4.12.2002

None of the grounds since not discernible in this proceeding to exercise the review power under section 114 read with Order 47, Rule 1 CPC, the review application is liable to be dismissed.

The review application is accordingly dismissed. No order as to costs.

IC(Chair)

Member

  
 Vice-Chairman

bb

12/12/2002  
 copy of the order  
 has been sent to  
 the office for issuing  
 the same to the  
 applicant as well as  
 to the Dr. C.G.S.C.  
LL

Note of the Registry

Date

Order of the Tribunal

3.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL GAUHATI  
BENCH AT GUWAHATI.

File by the applicant  
Pradip Kumar Choudhury  
Tezpur - Kishore  
Advocate  
3/10/02.

REVIEW APPLICATION NO. 6 /2002.

In O.A. No.29/2002

Sri Pradip Kumar Choudhury ... Applicant.

-VRS-

Union of India & Ors .... Respondents.

IN THE MATTER OF :-

A review application against the  
judgment and order dt. 5.6.2002  
passed by this Hon'ble Tribunal  
in O.A. No.29/2002.

-AND-

IN THE MATTER OF :-

Sri Pradip Kumar Choudhury,  
Sub-Area Organiser, SSB, Barpeta  
Howly, now promoted to the post  
of Joint  
Area Organiser, West-Khori,  
H.Q. Palia, Dist. Lakhimpur,  
Uttar Pradesh.

.....Petitioner  
Applicant.

-VRS-

1. The Union of India, represented  
by the Cabinet Secretary, New  
Delhi.
2. The Director General, SSB,  
New Delhi.
3. The Divisional Organiser,  
SSB, Tezpur.

4. Sri Kamal Baruah,

Joint Area Organiser, Khunsha,

Tirap, Dist. Arunachal Pradesh.

5. Shri N.C. Jhingta,

Joint Area Organiser, on deputation

in S.P.G., C/o Director General,

SSB, New Delhi.

.... Respondents  
Opp. Parties.

The humble petition of the petitioner/  
applicant above-named,

MOST RESPECTFULLY SHEWETH:-

1. That your petitioner filed the O.A. No.29/2002 under section 19 of the Central Administrative Tribunal Act, 1985 before this Hon'ble Tribunal praying for issuing direction to the respondents/opposite parties No.1, 2, 3 to promote the petitioner from the rank of Sub-Area Organiser to the rank of Joint Area Organiser with effect from the date of securing bench mark by the petitioner i.e. 'good' in the review DPC held on 22.8.2001 in compliance of the Central Administrative Tribunal's ~~ask~~ judgment dated 18.6.2001.

2. That in paragraph 6.7 at page 4 in O.A. No.29/2002 your petitioner categorically stated that as per impugned order at Annexure-3 annexed to the O.A. No.29/2002 the authority has informed the petitioner that the petitioner has secured good marks and as he is a gazetted officer Class-I so he is entitled to be promoted against the vacant post.

3. That the Hon'ble Tribunal heard the matter on 5.6.2002 and after going through an official file produced by the respondent authority and dismissed the O.A. No.29/2002.

4. That your petitioner was out of station and he was not aware of the judgment passed by the Hon'ble Tribunal. The counsel of the petitioner received the copy of the judgment on 28.7.2002 and on perusal of the same it was found that the petitioner's case was not considered by this Hon'ble Tribunal from its proper perspective. Only the Hon'ble Tribunal was satisfied from the records produced by the respondents before the Hon'ble Tribunal that the petitioner has been promoted to the cadre of Joint Area Organiser. On the basis of the DPC held in the month of April, 2002 that the petitioner filed O.A. No.29/2002 on 29.1.2002.

5. That in disposing of the case the Hon'ble Tribunal did not look into the grounds set forth in the O.A. No.29/2002. The Hon'ble Tribunal was satisfied from the records produced by the respondents/opposite parties that he has been promoted but the Hon'ble Tribunal lost side of the fact that he secured grade as shown in impugned order at Annexure-3 annexed to the O.A. 29/2002.

6. That your petitioner being highly aggrieved by the judgment and order dated 5.6.2002 prefer this review application against the said judgment passed in O.A. No.29/2002 on the following amongst other grounds:-

G R O U N D S

1. For that the petitioner impugned the order dated 18.9.2001 vide Annexure-3 annexed to the O.A.29/2002 but the Hon'ble Tribunal has not gone through the Annexure-3 as a result of which there has been serious miscarriage of the petitioner and as such it is a fit case for review the judgment and order dated 5.6.2002 passed in O.A. No.29/2002.
2. For that the review authority has not properly scrutinised the records of the applicant/petitioner while considering the applicant's case in review D.P.C.
3. For that the review D.P.C. reviewed the minutes of the DPC held on 29.1.98 and 7.8.98 for promotion of the petitioner to the rank of Joint Area Organiser but did not consult or peruse the ACRS of the petitioner's juniors.
4. For that the review DPC considered the case of the petitioner on the basis of available records without taking into account the adverse remarks explained in ACR pertaining to the period of 1995-1996 as directed by the Hon'ble Tribunal! If it is so while the DPC held on 21.1.98 and 7.8.98 ought to have recommended the petitioner's case for promotion to the post of Joint Area Organiser. But in the instant case the review DPC did not do so and this point has not been considered by the Hon'ble Tribunal in their judgment and order dated 5.6.2002 and hence it is a fit case for promoting the petitioner to the post of Joint Area Organiser.
5. For that the Hon'ble Tribunal while disposing the O.A. No.29/2002 did not go through the ACRs

of the juniors of the petitioner and compare the same with the petitioner's ACR and as a result the petitioner's case has been not properly considered resulting miscarriage of justice and hence it is a fit case for promoting the petitioner to the post of Joint Area Organiser.

6. For that the gazetted officer securing good marks in DPC is entitled to be promoted to the next higher post and this aspect also was not considered by the Hon'ble Tribunal. Hence it is a fit case for review the judgment and order dated 5.6.2002.

7. For that at any rate it is a fit case for review the judgment and order dated 5.6.2002.

It is, therefore, respectfully prayed that this Hon'ble Tribunal may be pleased to admit this review application, call for the records of the case and issue notice to the opposite parties to show cause as to why the judgment and order dated 5.6.2002 in O.A. No.29/2002 passed by this Hon'ble Tribunal should not be reviewed and heard O.A. No.29/2002 on merit and dispose of accordingly.

And for this act of kindness, the petitioner as in duty bound, shall ever pray.

Affidavit.....

A F F I D A V I T

I, Sri Pradeep Kumar Choudhury, aged about 51 years, at present working as Joint Area Organiser West Khori, H.Q. Palia, District - Lakhimpur, Uttar Pradesh, do hereby solemnly affirm and declare as follows:-

1. That I am the petitioner of the accompanying review application and as such am well conversant with the facts and circumstances of the case.
2. That the statements made in this affidavit and in paragraphs 1, 4, are true to my knowledge and those made in paragraphs 2, 3 being matter of records are true to my information derived therefrom which I believe to be true and the rests are my humble submissions made before this Hon'ble Tribunal. And I sign this affidavit on this the      th day of Sept' 2002 at Guwahati.

*Pradeep Kumar Choudhury*

Deponent.

Solemnly affirmed and declared before me by the deponent who is known to me.

*C. S. S.*  
ADVOCATE 29/9/2002

CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH

Original Application No. 29 of 2002.

Date of decision : This the 5th day of June, 2002.

Hon'ble Mr. Justice D.N.Chowdhury, Vice-Chairman.

Hon'ble Mr. K.K.Sharma, Member (A).

Sri Pradeep Kumar Choudhury,  
Sub-Area Organiser, SSB, Barpeta,  
Office of the Area Organiser,  
North Kamrup, Area Howly,  
District-Barpeta,  
Assam.

....Applicant

By Advocate Mr. S. Ali.

-versus-

1. Union of India,  
represented by the Cabinet Secretary,  
New Delhi.
2. Director General, SSB,  
New Delhi.
3. The Divisional Organiser, SSB,  
Tezpur.
4. Sri Kamal Baruah,  
Joint Area Organiser,  
Khunsa, Tirap District,  
Arunachal Pradesh.
5. Shri N.C. Jhingta,  
Joint Area Organiser,  
on deputation in S.P.G.,  
C/o Director General, SSB,  
New Delhi.

....Respondents

By Advocate Mr. A. Deb Roy, Sr. C.G.S.C.

O R D E R

CHOWDHURY J. (V.C.).

This is the second round of litigation. The  
applicant moved this Tribunal earlier by filing of O.A. No.

260/99 assailing the selection to the post of Joint Area Organiser. This Bench by order dated 18.6.2001 in O.A. No. 260/99 directed the respondents to hold a Review D.P.C. meeting for consideration of the claim of the applicant from promotion from Sub-Area Organiser to the post of Joint Area Organiser within the period prescribed. Pursuant to the aforesaid order a Review D.P.C. held on 22.8.2001 and the applicant was informed that he could not get the promotion from Sub Area Organiser to Joint Area Organizer. Hence this application assailing the legitimacy of the Review D.P.C.

2. The respondents submitted its written statement and stated that the Review DPC was held on 22.8.2001 and the case of the applicant was also assessed on the basis of available records. The DPC did not find him suitable for promotion to the rank of Joint Area Organiser even after expunging the adverse remarks for the year 1995-96. The result of the Review D.P.C. was placed before us including the minutes of the Review D.P.C..

3. From the materials on record it appears that the person promoted to the cadre of Joint Area Organiser was of higher merit and therefore we are not inclined to interfere with. In course of hearing it was however pointed out by the respondents that the applicant was subsequently found eligible for promotion in the D.P.C. held in the month of April 2002 and found suitable for promotion and in fact promotion and posting orders are being issued very shortly. Mr. S.Ali, Sr. Counsel however submitted that he is not aware of such things.

4. On consideration of all aspects of the matter, we do not find any merit in this application and accordingly the application is dismissed. There shall, however, be no order as to costs.

Sd/ VICE CHAIRMAN  
Sd/ MEMBER (Adm)