

CENTRAL ADMINISTRATIVE TRIBUNAL,

CHANDIGARH BENCH

R.A.No.060/00085/2015 in
O.A.No.060/000933/2014

Decided on: 26.2.2016

**CORAM: HON'BLE MR. SANJEEV KAUSHIK, MEMBER (J) &
HON'BLE MR. UDAY KUMAR VARMA, MEMBER (A)**

P.K. Sarin

S/o Shri S.N. Sarin,
234, Sector 4, Mansadevi Complex,
Panchkula,
Haryana,
Pincode: 134114.

Applicant

By: Self

Versus

1. Union of India through its Secretary,

Ministry of Urban Development,
Nirman Bhawan,
New Delhi-110011.

2. Director General of Works,

C.P.W.D.
Nirman Bhawan,
New Delhi-110011.

3. Union Public Service Commission

through its Chairman,
Shahjahan Road,
New Delhi.

Respondents

Present: None.

ORDER
HON'BLE MR. SANJEEV KAUSHIK, MEMBER (J)

1. The applicant had filed Original Application No.060/00933/2014 under section 19 of the Administrative Tribunals Act, 1985, inter-alia, for issuance of direction to the respondents to declare him eligible for promotion to the post of Executive Engineer (Civil) for the year 1995-96 on the premise that on the basis of service record for the relief period he was allowed to cross the efficiency bar and that he was promoted as Assistant Engineer by UPSC etc.

2. The Bench framed six questions of facts and law and after elaborate discussions on the same, the Original Application was dismissed vide order dated 24.11.2015. The Bench has held, inter-alia, that there are clear differences between the objective behind crossing the efficiency bar and promotion. The decision in the case of **Brij Nath Pandey Vs. State of U.P. & Ors**, 2000 (5) SLR, Page 76, cited by the applicant was distinguished. Qua consideration of ACRs for promotion to a particular post in a particular year, the Bench considered decision of Hon'ble Delhi High Court in the case of **Ranjana Kale Vs. CEA**, CWP No. 13488 of 2009 decided on 1.7.2010 was also distinguished holding that same does not help the applicant. Qua consideration of ACRs during suspension period and decision of High Court in W.P. © No. 1578 of 2003 – **Jasbir Singh Vs. Union of India & Others**, the Bench held that said decision also was of no help to the applicant. In regard to requirement of conveying of adverse ACRs after two decades delay, the Bench held that this issue stands clinched in earlier round of litigation and application has been conveyed adverse ACRS on directions of court of law and representations filed by the applicant against the same have also been rejected. With regard to issue as to whether Courts can sit in

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judgment over the evaluation of ACRs by expert bodies, the Bench placing reliance on **Union of India & Another Vs. S.K. Goel & Others** (C.A.No. 689 of 2007) decided on 12.2.2007 which in turn was based upon **U.P.S.C. Vs. K. Rajaiah & Others**, (2005) 19 SCC 15, answered in negative. Ultimately the Bench has held that the Tribunal / High Court cannot set aside the evaluation done by the Review Committee and the action of the DPC in declaring the applicant as unfit for promotion was upheld.

3. We have heard the applicant in person in detail.
4. The pleas taken by the applicant in the review application and during course of hearing, indicates that he is basically not happy with the view taken by this Tribunal and has tried to re-argue the case all over again to press that the findings recorded by the Tribunal are not proper. In the Scheme of things as applicable to proceedings in this Tribunal and power of judicial review which vests with the Hon'ble High Court, the applicant, if he is not satisfied by the view taken by this Tribunal, has an option to approach the Hon'ble High Court by filing a Writ Petition. He cannot be allowed to pose a challenge to findings recorded by this Tribunal in its earlier order which apparently are not favourable to him in the guise of a review plea.
5. Order 47 Rule 1 CPC, 1908 provides that a decision or judgment is open to review only if there is a mistake or an error apparent on the face of the record. An error which is not self-evident and has to be detected by a long process of reasoning, can hardly be said to be an error apparent on the face of the record justifying a court of law to exercise its power of review. In exercise of the jurisdiction under Order 47 Rule 1 CPC it is not permissible for an erroneous decision to be 'reheard and corrected'.

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6. A review petition, it must be remembered has a limited purpose and cannot be allowed to be 'an appeal in disguise'. In **Inderchand Jain vs. Motilal** (2009) 14 SCC 663, the Hon'ble Apex Court has clearly held that an application for review would succeed only when the order suffers from an error apparent on the face of the record and permitting the same to continue would lead to failure of justice.

7. Needless to mention that we have not been shown any factual or clerical error by the applicant, much less apparent on the face of the record, which may warrant review of the order in question.

8. Review Application is, therefore, dismissed.

**(SANJEEV KAUSHIK)
MEMBER (J)**

**(UDAY KUMAR VARMA)
MEMBER (A)**

Place: Chandigarh
Dated: 26.02.2016

HC*