

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

R.A.NO.216/2004 in
O.A.No.2442/2003

New Delhi, this the 11th day of August. 2004

HON'BLE SHRI JUSTICE V.S. AGGARWAL, CHAIRMAN
HON'BLE SHRI S.A.SINGH, MEMBER (A)

O.N. Mathur,
S/o Shri J.N. Mathur,
aged about 54 years,
R/o A-141, Priyadarshini Vihar,
I.P. Extension,
Delhi-110m 092

And employed as:

Finance and Accounts Officer
in the Central Pollution Control Board,
Parivesh Bhawan,
East Arjun Nagar, Shahdara,
Delhi-110 092Applicant

Versus

1. Union of India,
Through the Secretary,
Ministry of Environment and Forests,
Government of India,
Paryavaran Bhawan,
C.G.O. Complex, Lodhi Road,
New Delhi-110 003
2. The Chairman,
Central Pollution Control Board,
Parivesh Bhawan,
East Arjun Nagar, Shahdara,
Delhi-110 092Respondents

O R D E R (By Circulation)

Justice V.S. Aggarwal:-

Applicant (O.N.Mathur) had filed the OA
2442/2003. This Tribunal dismissed the same on
29.7.2004.

2. The precise grievance of the applicant was
that he had been promoted and had worked to the higher
post for past more than eight years on ad hoc basis.



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The Departmental Promotion Committee Meeting had taken place but the Central Government had not approved his appointment.

3. Application was dismissed holding that approval of the Government could not be accorded because the appointment could only be given as per the rules. Mere continuing the work on ad hoc basis for many years will not confer a right upon the applicant and further keeping in view the nature of the recruitment rules, the applicant could be considered along with other candidates and that he could not insist that only the method of promotion should be adopted.

4. Applicant seeks review of the said order. It is reiterated that the post had to be filled up firstly by promotion and that the view taken by this Tribunal to the contrary is not valid. Furthermore, it is claimed that the applicant has continued to work for such a long period.

5. Power to review is akin to the scope and ambit of Order 47, Rule 1 of the Civil Procedure Code. In the decision rendered by the Supreme Court in the case of Smt. Meera Bhanja v. Smt. Nirmala Kumari Choudhury. AIR 1995 SC 455. the Supreme Court held that error apparent on face of record means an error which strikes one on mere looking at record and does not require any long drawn process of reasoning on points which were there and where two opinions could be held.

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6. The same was the view expressed by the Supreme Court in the case of Parsion Devi & Ors. v. Sumitri Devi & Ors. JT 1997 (8) S.C. 480. The Supreme Court held:

"9. In exercise of the jurisdiction under Order 47 Rule 1 CPC it is not permissible for an erroneous decision to be "reheard and corrected". A review petition, it must be remembered has a limited purpose and cannot be allowed to be "an appeal in disguise".

7. In the case of K. Ajit Babu & Others v. Union of India & Others. 1998(1) AISLJ 85. it was again insisted that right of review is not a right of appeal.

8. More recently, in the case of Union of India v. Tarit Ranjan Das. 2004 SCC (L&S) 160, while going into the same question. the Supreme Court held:

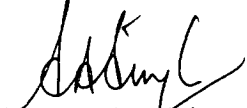
"13. The Tribunal passed the impugned order by reviewing the earlier order. A bare reading of the two orders shows that the order in review application was in complete variation and disregard of the earlier order and the strong as well as sound reasons contained therein whereby the original application was rejected. The scope for review is rather limited and it is not permissible for the forum hearing the review application to act as an appellate authority in respect of the original order by a fresh order and rehearing of the matter to facilitate a change of opinion on merits. The Tribunal seems to have transgressed its jurisdiction in dealing with the review petition as if it was hearing an original application. This aspect has also not been noticed by the High Court."

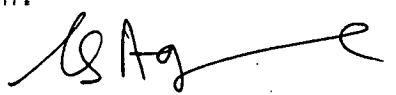
9. Keeping in view the aforesaid, it is clear that it cannot be treated as an appeal against the same order. The question agitated had been considered. We find no error apparent on the face of

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the record which can be detected on the face of it.
Review Application must be held, therefore, to be
without merit. Dismissed in circulation.


(S.A. Singh)
Member (A)


(V.S. Aggarwal)
Chairman

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