

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

**RA-210-2021 in
CWP-10558-2021
Date of Decision:-7.10.2021**

Satish Kumar

... Applicant/Petitioner

Versus

Director General of Defence Estates and others

... Non-applicant/Respondents

**CORAM: HON'BLE MR. JUSTICE RAJAN GUPTA
HON'BLE MR. JUSTICE KARAMJIT SINGH**

Present:- Mr. G.S. Bal, Senior Advocate with
Mr. Sewa Singh, Advocate
for the applicant/petitioner.

Ms. Puneeta Sethi, Senior Counsel
for Union of India.

KARAMJIT SINGH, J.

Case has been heard through video conferencing on account of
COVID-19 Pandemic.

The applicant/petitioner has filed this application under Section
114 read with order 47 Rule 1 CPC, seeking review of the order dated
14.7.2021 passed by this Court in CWP-10558-2021 whereby the writ
petition filed by the applicant/petitioner seeking the following reliefs was
dismissed:-

- i) Writ in the nature of Certiorari seeking quashing of
impugned order dated 3.5.2021 (Annexure P-6) passed by

Central Administrative Tribunal, Bench Chandigarh (in short 'the Tribunal').

- ii) Writ in the nature of Mandamus directing the respondents to offer appointment to the petitioner as Chief Executive Officer Group-B, Cantonment Board.
- iii) Issue any other appropriate writ as the Court may deem it fit and proper in the facts and circumstances of the case.
- iv) During the pendency of the writ petition, one post of Chief Executive Officer Group-B, Cantonment Board be ordered to be kept reserved for the petitioner.

The present application has been moved by the applicant/petitioner seeking review of the aforesaid order on the following grounds:-

- i. That specific case of the petitioner was that he was at No.4 in the merit list and person at selection / merit list No.1 having refused to join, petitioner being within selection zone of three posts having been advertised for the quota against which petitioner applied and being within the post advertised as per his merit was bound to be appointed.
- ii. That the petitioner never claimed either in the OA or writ petition or even at the time of arguments that he was next in the waiting list and that he should be offered appointment. His specific claim was that 3 posts were advertised in his quota and he being at merit No.4, became within the selection zone by virtue of Sh. Satish Manurkar at Merit No.1 having refused to join.

The counsel counsel for the applicant/petitioner in support of the review application contended that the applicant/petitioner never claimed that waiting list should have been maintained or he being next in the waiting list should have been appointed. Learned counsel further contended that the reliance placed by the Court on **Bihar State Electricity Board vs. Suresh Prasad and Others, 2004(2) RSJ 260** was totally misplaced. It was further argued that the claim of the applicant/petitioner was squarely covered under the following judgments, referred by the counsel for the applicant/petitioner:- **LPA-716-2011 (O&M), State of Haryana and Others vs. Gajraj Singh**, decided on 20.4.2011; **CWP-8121-2002, Digvijay Pal Singh vs. State of Punjab and Others**, decided on 4.3.2008; **CWP-20393-2015, Shilpa Gupta vs. State of Punjab**, decided on 2.3.2016; **LPA-2257-2011, Ravinderjit Singh and Others vs. State of Punjab**, decided on 8.4.2013.

The counsel for the applicant/petitioner further submitted that in revaluation, the marks of one Uma Shanker were reduced against which he gave representation but the same was rejected. The counsel for the applicant/petitioner further contended that in view of the matter, the impugned order deserves to be reviewed.

We have considered the contentions raised by the counsel for the applicant/petitioner and also gone through the order in question dated 14.7.2021.

Admittedly, the party is not entitled to seek a review of an order merely for the purpose of rehearing and afresh decision of the case. It is

settled law that a review is by no means an appeal. The re-appreciation of evidence cannot be permitted to be advanced in the review petition.

Now advertng to the facts of the present case, the applicant/petitioner approached the Central Administrative Tribunal seeking direction to the respondents to offer him appointment to the post of Chief Executive Officer, Group-B, Cantonment Board on the ground that applicant/petitioner being next in the merit list. The Central Administrative Tribunal after hearing both the parties dismissed the original application of the applicant/petitioner. Being not satisfied, the applicant/petitioner filed CWP-10558-2021. The same was dismissed by this Court vide detailed order dated 14.7.2021. While dismissing the writ petition, the Court observed that the case law referred by the applicant/petitioner was not applicable to the facts of the case in hand. All the contentions raised by the counsel for the applicant/petitioner were also taken note of by this Court while dismissing the aforesaid writ petition.

In para No.12 of the writ petition, the applicant/petitioner posed challenge to the impugned order of the Central Administrative Tribunal *inter-alia* on the following ground:-

“That law is well settled in this regard that irrespective of the fact as to whether any waiting list is maintained or not, if any post advertised remains vacant and next candidate in the merit list is available, appointment against that post is liable to be offered to such candidate next in the merit list.”

In answer to to aforesaid issue, this Court referred to **Suresh Prasad’s** case (supra) wherein it was held that in the absence of any such

rule for preparing a waiting list for successful candidates to fill the vacancies which remained unfulfilled due to not turning up of the candidates to join, the Court has no power to order that unfulfilled vacancies be offered to further candidates in order of merit. The Hon'ble Apex Court also held that mere selection does not give any indefeasible right to appointment to a candidates against existing vacancies.

In the light of the above, we do not find any ground to review the order dated 14.7.2021. Consequently, the present review application is hereby dismissed being devoid of merits.

(RAJAN GUPTA)
JUDGE

(KARAMJIT SINGH)
JUDGE

7.10.2021

Gaurav Sorot

Whether reasoned / speaking?

Yes / No

Whether reportable?

Yes / No