

CENTRAL ADMINISTRATIVE TRIBUNAL
JAIPUR BENCH, JAIPUR

**REVIEW APPLICATION NO. 291/03/2011
&
REVIEW APPLICATION NO. 291/04/2011
IN
ORIGINAL APPLICATION NO. 291/09/2009**

DATE OF ORDER: 29.11.2019

CORAM

**HON'BLE MR. SURESH KUMAR MONGA, JUDICIAL MEMBER
HON'BLE MR. A. MUKHOPADHAYA, ADMINISTRATIVE MEMBER**

RA No. 291/03/2011

1. Shri Sita Ram Regar Son of Shri Pata Ram Regar, Resident of B-33, Surya Nagar, Alwar. Presently working as Income Tax Officer, Alwar.
2. Dhanna Lal Bairwa Son of Shri Kanhaiya Lal Bariwa, aged about 33 years, Resident of 12, Patel Nagar, Gopalpura Bypass, Jaipur.

....Original Applicants

Mr. Amit Mathur, counsel for review applicants.
Mr. S.K. Bhargava, proxy counsel for
Mr. Nand Kishore, counsel for original applicants.

VERSUS

1. Union of India through the Secretary, Ministry of Finance, Department of Revenue, North Block, New Delhi.
2. The Chief Commissioner of Income Tax (CCA) Rules, N.C.R. Building Statue Circle, Jaipur.
3. The Secretary, Department of Personnel and Training, Ministry of Personnel and Public Grievances and Pension, New Delhi.

....Respondents

Mr. Gaurav Jain, counsel for respondents No. 1 and 2.
Mr. Anand Sharma, counsel for respondent No. 3.

RA No. 291/04/2011

Pradeep Sharma son of Shri Gopi Ram Sharma, aged about 50 years, resident of Quarter No. IV/22, Income Tax Colony, Jyoti Nagar, Jaipur. Presently working at Income Tax Office Statue Circle, Jaipur.

....Review Applicant

Mr. Amit Mathur, proxy counsel for
Mr. Ashwini Jainman, counsel for review applicant.

VERSUS

1. Union of India through Secretary, Ministry of Finance, Department of Revenue, Central Board of Direct Taxes, North Block, New Delhi.
2. Chief Commissioner of Income Tax (Cadre Controlling Authority), NCR Building, Statue Circle, Jaipur.
3. Secretary, Department of Personnel & Training, Ministry of Personnel, Public Grievances & Pensions, North Block New Delhi.

....Respondents

4. Sita Ram Raiger S/o Shri Pala Ram Raigar, r/o B-33, Surya Nagar, Alwar.
5. Dhanna Lal Bairwa S/o Shri Kanhiya Lal Bairwa, R/o 12, Patel Nagar, Gopalpura bye-pass Road, Jaipur

...Respondents-original-applicants.

Mr. Gaurav Jain, counsel for respondents No. 1 and 2.
Mr. Anand Sharma, counsel for respondent No. 3.
Mr. S.K. Bhargava, proxy counsel for
Mr. Nand Kishore, counsel for original applicants.

ORDER (Oral)

Per: Suresh Kumar Monga, Judicial Member

By way of this common order, we propose to dispose of R.A. No. 291/03/2011 and R.A. No. 291/04/2011.

2. The Review Application No. 291/03/2011 has been filed by Shri B.L. Gupta S/o Shri Jagdish Prasad Gupta and Shri Ashok Kumar Sharma S/o late Shri Prem Chand Sharma and the Review Application No. 291/04/2011 has been filed by Shri Pradeep Sharma S/o Shri Gopi Ram Sharma. In both the Review Applications, the applicants have prayed for review of the order dated 29th September, 2009 vide which the Original Application No. 09/2009 was allowed by this Tribunal.

3. Shri Amit Mathur, learned counsel for the review applicants submitted that the review applicants were not impleaded as party respondents before this Tribunal in O.A. No. 09/2009 and since the order dated 29th September, 2009 effected their rights adversely, therefore, they preferred a D.B. Civil Writ Petition No. 8613/2010 before the Hon'ble High Court of Rajasthan at Jaipur Bench, Jaipur.

4. During pendency of the said D.B. Civil Writ Petition No. 8613/2010 before the Hon'ble High Court of Rajasthan, an application No. 44222 dated 3rd November, 2010 was preferred by Shri Pradeep Sharma and seven others for getting themselves impleaded as parties in the said writ petition.

5. The aforesaid D.B. Civil Writ Petition No. 8613/2010 was disposed of by the Hon'ble High Court of Rajasthan vide order dated 06th January, 2011. The operative portion of the said order is reproduced here as under: -

"7. Accordingly, we dispose of the writ petition with liberty to the petitioners to approach the learned Central Administrative Tribunal, Jaipur by means of review petition as laid down by their Lordships of the Supreme Court in Rajeev Kumar's case (supra) and the interim order passed by this Court on 09th July, 2010 would remain in force for a period of 30 days from today. It is made clear that in case a review petition is preferred by the petitioners, the petitioners would be entitled to seek condonation of delay in accordance with law for having pursued the remedy before this forum.

8. It is further made clear that in case, no review petition is filed within the aforesaid period of 30 days from today, the interim order dated 09th July, 2009 shall stand vacated automatically.

9. In the event of review petition being filed, it would be open for the learned Tribunal to pass appropriate orders with regard to implementation of the directions contained in the judgment dated 29th September, 2009 or with regard to the same being kept in abeyance, as the case may be, after consideration of the submissions of respective parties.

10. Before this Court an application has been filed bearing No. 44222 dated 3rd November, 2010 by applicants Pradeep Sharma & seven others for being impleaded as party to this writ petition.

11. Since, we are disposing of this writ petition, with the aforesaid direction giving liberty to the petitioners to file review petition before the Tribunal, liberty is granted to the applicants who have filed application No. 44222 dated 3rd November, 2010 to approach the learned Tribunal in this behalf for seeking whatever relief they sought by means of this application."

6. We have heard learned counsels for the parties and perused the record.

7. Since the review applicants in R.A. No. 291/03/2011 and R.A. No. 291/04/2011 were not impleaded as party respondents in the Original Application and the rights with regard to their seniority are effected adversely as a consequence of order dated 29th September, 2009 passed by this Tribunal, therefore, we are of the considered view that the said order is liable to be recalled.

8. Accordingly both the Review Applications i.e. R.A. No. 291/03/2011 and R.A. No. 291/04/2011 are allowed. The order dated 29th September, 2009 passed by this Tribunal in O.A. No. 09/2019 is recalled.

9. Keeping in view the principles embodied in Order 1 Rule 10 (2) of the Code of Civil Procedure, 1908 and Section 22 (1) of the Administrative Tribunals Act, 1985, Shri B.L. Gupta S/o Shri Jagdish Prasad Gupta, Shri Ashok Kumar Sharma S/o late Shri Prem Chand Sharma and Shri Pradeep Sharma S/o Shri Gopi Ram Sharma (review applicants in R.A. No. 291/03/2011 and R.A. No. 291/04/2011) are also ordered to be impleaded as

respondents No. 4, 5 and 6, respectively in the Original Application.

10. Accordingly, Shri Amit Mathur, learned counsel for the newly impleaded respondents is directed to file amended cause title in the Registry within a period of two weeks from the date of receipt of a certified copy of this order.

11. Reply, if any, to Original Application be filed by the newly impleaded respondents on or before the date fixed for hearing with an advance copy to learned counsel for the original applicants.

12. At this stage Shri Amit Mathur, learned counsel for the newly impleaded respondents pointed out that an identical issue is pending adjudication before the Hon'ble Supreme Court in the case of **Jarnail Singh vs. Lachhmi Narain Gupta**, SLP (C) No. 30621/2011, which is scheduled to be listed on 02.12.2019.

13. List the O.A. on 18.03.2020 for hearing.

(A. MUKHOPADHAYA)
ADMINISTRATIVE MEMBER

(SURESH KUMAR MONGA)
JUDICIAL MEMBER

Kumawat