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CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

Review Application No.155/2004
Miscellaneous Application No.1245/2004
Original Application No.1110/2001

New Delhi, this the ^W day of June, 2005

Hon'ble Mr. Justice V.S. Aggarwal, Chairman
Hon'ble Mr. S.K.Naik, Member (A)

Union of India & Ors ... Review Applicants
(By Advocate: Sh. M.K.Bhardwaj proxy of Sh. A.K.Bhardwaj)

Versus

Bhagwanti ... Review Respondent
(By Advocate: Mrs. Meenu Mainee)

ORDER

By Mr. Justice V.S.Aggarwal:

Delay in filing the RA is condoned. Original Application No.1110/2001 had been filed. On 27.1.2003, this Tribunal had passed the following order following the decision of the Guwahati Bench of this Tribunal, which reads:

"ORDER (ORAL)"

By Justice V.S.Aggarwal, Chairman

The applicant is working as Tailor in the Ministry of Defence.

2. It is not in dispute that in large number of decisions passed by this Tribunal, the relief claimed by the applicants for higher pay scale was awarded. Reference is made to the decision of the Guwahati Bench of this Tribunal in the case of Nripendra Mohan Paul & Ors Vs. Union of India & Ors. (O.A.158/94) decided on 19.10.95. The special leave petition against the said Judgement had been dismissed by the Supreme Court on 11.7.96 in SLP No.13856/96. A similar relief had been granted to one Om



Prakash, who was similarly situated, in O.A.556/2001 decided on 19.2.2002.

3. This was not in controversy. Learned counsel for the respondents however contended that applicant cannot be granted the arrears for the past years.

4. The application in question had been filed on 30.4.2001. Keeping in view this fact, we dispose of the present application with a direction to the respondents to re-fix the pay of the applicant notionally in the revised pay scale of 3050-4590 as has been done in the case of similarly situated persons. However, she would be entitled to arrears to which would be confined to 38 months before filing of the petition, keeping in view the law of limitation. Since the applicant has retired, the revised pension should also be redrawn. O.A. is disposed of.

(Shankar Prasad)
Member (A)

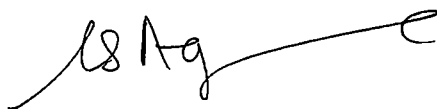
(V.S.Aggarwal)
Chairman"

2. On behalf of the respondents, Review Application has been filed claiming that the said decision is contrary to the Full Bench of this Tribunal in OA No.735/1999, decided on 20.6.2001 at Mumbai Bench.

3. The Full Bench had overruled the decision of the Guwahati Bench which has been referred to in the order of this Tribunal.

4. It is obvious from these facts that the view taken by this Bench in the order of 27.1.2003 is not correct. It goes contrary to the Full Bench decision.

5. Certainty of law should be maintained. It is obvious that at the relevant time, decision of the Full Bench had not been




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noticed nor brought to the notice of this Tribunal. The decision of the Full Bench binds.

6. The Kerala High Court in the case of **ABY ABRAHAM MATHEW** v. **HINDUSTAN NEWSPRINT LTD.**, AIR 2002 NOC 86 (Kerala) [R.P.No.439 of 2001, decided on 10.12.2001] was concerned with the situation as to whether when there is a law laid down by the Supreme Court and the order passed is contrary, it should be taken as an error apparent on the face of the record. The Kerala High Court held in affirmative. The decision of the Full Bench also binds, therefore, view to the contrary taken must be taken as an error apparent on the face of the record.

7. Resultantly, following the ratio deci dendi of the decision of the Full Bench of this Tribunal referred to above, we record:

- a) The order of this Tribunal dated 27.1.2003 is recalled/reviewed.
- b) Instead, the OA is dismissed.


(S.K.Naik)
Member (A)


(V.S.Aggarwal)
Chairman

/NSN/