

In

In

New Delhi this the 19th day of October 2005.

Hon'ble Mr. Shanker Raju, Member (J)

-Review Applicants

(By Advocate Shri Vijay Pandita)

-Versus-

-Respondents

(By Advocate Shri Arun Bhardwaj)

O R D E R (ORAL)

Mr. Shanker Raju, Hon'ble Member (J):

By an order dated 21.11.2003 while allowing OA-2791/2003 re-consideration of the claim of applicants for parity of pay was ordered. By an order dated 19.1.2005 respondents in compliance of the direction of the Court rejected the request of applicants for parity of pay. The aforesaid led to filing of CP-467/2004 assailing willful and contumacious disobedience on the part of the respondents. By an order dated 2.6.2005 on the consent and agreement of the respondents' Counsel Shri George Parackal to reconsider the matter afresh respondents were directed to pass fresh orders.

2. The above order was challenged before the High Court of Delhi in WP (C) No.13297/2005.

3. By an order dated 22.8.2005 on the ground that the concession of the counsel has not been made by way of



statement permission is granted to withdraw the petition and to move an appropriate application. Hence the present RA.

4. Learned counsel for respondents in OA Shri Vijay Pandita contended that while filing reply to the CP it is informed to the Tribunal that a speaking order has been passed. The arguments in the CP were heard on 2.6.2005 whereas the judgment was reserved for recording reasons, as such by referring to a response by the then learned counsel for respondents Shri George Parackal, who henceforth is functioning as Hon'ble Member (J), Central Administrative Tribunal, Ernakulam Bench, it is stated that no such consent had been accorded by the erstwhile. Accordingly by virtue of the present RA the order dated 21.11.2003 is sought to be recalled.

5. On the other hand, respondents counsel in RA Shri Arun Bhardwaj vehemently opposed the contentions and stated that the order in CP was not reserved and as whatever happenings had taken place before the Court in CP are the true account and the learned counsel of respondents did make a statement of concession to re-consider the grievance of applicants in OA.

6. In the above backdrop it is stated that unless an affidavit is filed by the erstwhile learned counsel of respondents, denying making of any statement, admitted facts cannot be rebutted and review is a misuse of the process of law.

7. We have carefully considered the rival contentions of the parties and perused the material on record. It is trite law that under Section 22 (3)(f) of the Administrative Tribunals Act,

1985, no review lies unless there is an error apparent on the face

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of the record or discovery of new and important material, which even after due diligence was not in possession of the contending party at the time of arguments, although by way of clarification certain inadvertent typographical errors can be rectified.

8. On perusal of the order passed by us in CP we are of the considered view that when the Tribunal has pointed out and confronted the counsel of respondents Shri George Paracken as to the orders passed by them on 19.1.2005 not in true letter and spirit of the directions issued in OA, a categorical statement by way of concession in agreement to reconsider the matter afresh and pass an order had been made. This statement has not been rebutted by way of an affidavit filed by the erstwhile counsel of respondents Shri George Paracken. Accordingly, we have no hesitation to hold that the order in CP was not reserved but pronounced on the same date with recording of reasons separately.

9. In the above view of the matter finding this RA not within the scope and ambit of the review, RA filed by respondents is accordingly dismissed.

S. Raju
(Shanker Raju)
Member(J)

V.K. Majotra
(V.K. Majotra)
Vice-Chairman(A)
19.10.05

'San.'