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**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI**

**R.A. NO.66/2006
in
O.A. NO.2206/2004**

This the 8th day of May, 2006.

**HON'BLE SHRI V. K. MAJOTRA, VICE-CHAIRMAN (A)
HON'BLE SHRI MUKESH KUMAR GUPTA, MEMBER (J)**

Secretary,
Home (Police) Department,
Government of Bihar, Patna.

... Applicant

versus

Jagmohan,
Joint Deputy Director,
Intelligence Bureau,
Ministry of Home Affairs,
Government of India,
35, S.P. Marg, New Delhi.

... Respondent

O R D E R (IN CIRCULATION)

Hon'ble Shri V.K.Majotra, Vice-Chairman (A):

Through this application respondents in the OA have sought review of Tribunal's orders dated 7.3.2006 in OA No.2206/2004. It has been stated on behalf of review applicant that the matter was heard *ex parte* in terms of rule 16 of the CAT (Procedure) Rules, 1987 as none had appeared on behalf of respondents. It has been explained that the counsel of respondent No.2 State was to come from Patna to attend the Court on 7.3.2006 but he was prevented to appear before the Court as the train reached late at New Delhi Station. It has been contended that when the counsel of respondent No.2 reached the Tribunal, the matter had been decided *ex parte* against respondents in terms of rule 16 *ibid.*

2. It is further stated that the review applicant had to establish that the letter dated 9.2.1960 relied upon by the applicant in the OA had been superseded

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and amended by letter dated 5.1.1999, but the Tribunal had told the counsel on the date before 7.3.2006 that such a letter could be produced on the date of hearing, and that there is no provision to reply the rejoinder.

3. In the end, it has been prayed that the case be re-heard recalling the Tribunal's orders dated 7.3.2006.

4. We have considered this application in the light of the material on record as also the legal provisions.

5. On 6.2.2006 on finding the pleadings complete, the matter was admitted subject to all legal exceptions. Shri B.N.Yadav, learned counsel of respondent No.2, had stated that since he came from Patna, a specific date for hearing be fixed. Accordingly, in order to accommodate him the case was listed for final hearing on 7.3.2006. On 7.3.2006, the learned counsel remained absent at the time of hearing of the case. The following orders were passed:

“Present: Shri K.S.Negi, Id. Counsel for applicant.
None for respondents despite revised call.

Case had been fixed for final hearing on 07.03.2006 in the category of regular matters, particularly in view of the fact that Shri B.N.Yadav, Id. Counsel for respondent No.2 comes from Patna and wanted a specific date of hearing be fixed. However, he has not appeared despite revised call.

None has appeared on behalf of other respondents also. We proceed to adjudicate in the matter in terms of Rule 16 of CAT (Procedure) Rules, 1987 by taking into consideration the respective pleadings of the parties, material on record and hearing the Id. Counsel of applicant.

OA is allowed in terms stated in the order dictated separately.”

The OA was allowed.

6. Afterwards, Shri Yadav appeared in the chamber and requested for re-hearing in the matter. He was told that after the pronouncement of the orders

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whatever he wanted to state, he had to do so by way of an application. As such, he has made this application for review.

7. It has been stated on behalf of respondent No.2 (review applicant) that on the date prior to 7.3.2006, the learned counsel was told that the letter superseding the earlier letter could be pointed out during the course of final hearing. Order dated 6.2.2006 reads as follows:

“Present: Shri K.S.Negi, counsel for applicant.

Shri B.N. Yadav, counsel for respondent no.2.

Pleadings are complete.

Admit subject to all legal exceptions.

Shri B.N. Yadav, learned counsel for respondent No.2 states that since he has to come from Patna, a specific date for hearing may be fixed. Accordingly, list this case for final hearing on 07.3.2006 in the category of Regular Matters.”

There is no reference to respondents' letter dated 5.1.1999 superseding the earlier letter dated 9.2.1960. He has wrongly stated that Tribunal had told him in this regard that there is no provision to reply the rejoinder. Certainly, such permission can be granted, if there are strong reasons and it helps adjudication in the matter. Further, order sheet dated 6.2.2006 does not support the contention made on behalf of respondent No.2.

8. It is relevant to reproduce the following provisions of CAT Rules of Practice, 1993:

“105. Pronouncement of order. – (a) The Bench shall as far as possible pronounce the order immediately after the hearing is concluded.

(b) When the orders are reserved, the date for pronouncement not later than 3 weeks shall be fixed. The date so fixed shall not be changed without due notice to all parties/counsel.

(c) Reading of the operative portion of the order in the open Court shall be deemed to be pronouncement of the order.”



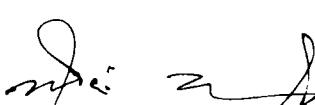
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"107. Authorising any Member to pronounce order. –
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(c) If the order cannot be signed by reason of death, retirement or resignation or for any other reason by any one of the Members of the Bench who heard the case, it shall be deemed to have been released from part-heard and listed afresh for hearing."

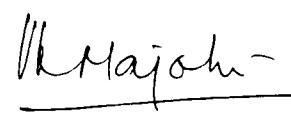
These provisions ordain that the Bench as far as possible pronounce the order immediately after conclusion of the hearing. In the present case following this provision, the order was pronounced immediately after conclusion of hearing on 7.3.2006, when the learned counsel of respondent No.2 had not put in appearance in the Court. The case can be re-heard in the circumstances described in rule 107 (c) *ibid*. These circumstances are not present in the present case. On behalf of respondent No.2 has been sought re-hearing of the matter as the counsel could not appear at the time of hearing. Final hearing in the case had been fixed at the convenience of counsel for respondent No.2. It is a different matter he had certain reasons for not appearing in the Court at the time of hearing and the order happened to be pronounced after hearing. Furthermore, no error apparent on the face of record has been pointed out in this application. Respondents were always in possession of letter dated 5.1.1999. They could have produced the same along with their counter replies. Why had they to wait till the applicant based his claim in the rejoinder on letter dated 9.2.1960? Respondents could still ask for rebuttal of applicant's contention and production of respondents' letter dated 5.1.1999.

9. We do not find any good reasons for recalling our orders and re-hearing the case, as it is beyond the scope and ambit of review. Accordingly, this review application is dismissed in circulation.


 (Mukesh Kumar Gupta)

Member (J)

/as/


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

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