

(24)

**Central Administrative Tribunal  
Principal Bench, New Delhi.**

RA-172/2005 in  
OA-1120/2004

New Delhi this the 4<sup>th</sup> day of April, 2006.

**Hon'ble Mr. Shanker Raju, Member(J)  
Hon'ble Mrs. Chitra Chopra, Member(A)**

1. Union of India through  
the Secretary,  
Ministry of Defence,  
Government of India,  
South Block,  
New Delhi.
2. The Engineer-in-Chief,  
Army Headquarters,  
Military Engineering Services,  
DHQ PO, Kashmir House,  
New Delhi.

.... Review Applicants  
(through Sh. H.K. Gangwani, Advocate)  
Versus

1. Satish Chand,  
Office Supdt.,  
C/o Army Headquarters,  
Military Engineering,  
DHQ PO, Kashmir House,  
New Delhi.
2. Sh. P.K. Sharma,  
Assistant,  
C/o Army Headquarters,  
Military Engineering Services,  
DHQ PO, Kashmir House,  
New Delhi.

.... Respondents  
(through Sh. VSR Krishna, Advocate)

**Order (Oral)**  
**Hon'ble Shri Shanker Raju, Member(J)**

**Heard the learned counsel for the parties.**

2. The only ground to assail an order passed on 01.07.2005 in OA-1120/2004 whereby according the benefits mutatis mutandis to the applicants of the decision of Madras Bench in OA-27/1999, which stood affirmed by the High Court of Adjudication at Madras against which SLP

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No. 6499/2004 though subjudice, the decision affirmed by the High Court has not yet been stayed.

3. It is trite law that unless a decision is stayed, else modified or over turned, it does not cease to be a precedent, it is binding on the subordinate Court.

4. Moreover, in our considered view, Section 22(3)(f) of the Administrative Tribunals Act, 1985 lays down only two grounds for judicial review of an order, i.e., error apparent on the face of record and discovery of new material. Non-consideration of settled position of law may be a ground to review the orders, but in the present case having satisfied that Madras Bench decision of the Tribunal, as affirmed by the High Court, is binding on us. Extension thereof has been accorded to the applicants. It is further ensured that being retirees that the amount received by them in case an adverse order is passed by the Apex Court, the recovery would have to be effected and an undertaking has been directed to be given by the respective applicants to the tune that in case the issue is decided against them they would refund the amount paid by the respondents. It is also provided under CCS (Pension) Rules, 1972 that DA part can be utilized for recovery of any dues from a government servant.

5. In this view of the matter, it would be re-agitation of the matter and the grounds raised are not apt for interference by way of review. The present review application is rejected. No costs.

Chitra Chopra  
(Chitra Chopra)  
Member(A)

S. Raju  
(Shanker Raju)  
Member(J)

/v/v/