

**Central Administrative Tribunal
Jaipur Bench, Jaipur**

O.A. No.9/2009

Date of decision:02.03.2021

**Hon'ble Mr. Dinesh Sharma, Member (A)
Hon'ble Mrs. Hina P. Shah, Member (J)**

1. Sita Ram Raigar S/o Pal Ram Raigar, aged about 46 years working as Income Tax Inspector, pay Band 9300-34800 with grade pay 4200, Resident of B-33, Surya Nagar, Alwar.
2. Dhanna Lal Baiwa S/o Shri Kanhiya Lal Bairwa, aged about 41 years, working as Income Tax Inspector, pay Band 9300-34800 with grade pay 4200, Resident of 12, Patel Nagar, Gopalpura Bye-pass Road, Jaipur-302015.
...Applicants.

(By Advocate: Shri S.K.Bhargava)

Versus

1. Union of India, through The secretary, Ministry of Finance, Department of Revenue, Central Board of Direct Taxes, North Block, New Delhi-110 001.
2. The Chief Commissioner of Income Tax, (Cadre Controlling Authority), NCR Building, Statute Circle, Jaipur.
3. Secretary, Department of Personal & Training, Ministry of Personal Public Grievances & Pensions, North Block, New Delhi-110 001.
...Respondents

(By Advocate: Shri Gaurav Jain)

ORDER (ORAL)

Per: Dinesh Sharma, Member (A):

In this OA, the Tribunal had passed an order dated 29th September 2009, which, following challenge before the Hon'ble Rajasthan High Court, and following Review Applications by some parties who were not impleaded

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earlier, was recalled by this Tribunal's order dated 29.11.2019. We are reproducing the order in full here:-

"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

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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.

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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."

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2. On 18.03.2020, the case was adjourned on joint request of learned counsels of both parties. On the next date, 06.07.2020, it was adjourned at the request of the proxy counsel for the applicants. Due to covid reasons, the case was listed before the Joint Registrar for the next two hearings. It came before the Bench on 26.02.2021 and was adjourned to 02.03.2021 and was listed under heading "(No adjournment) On Board till disposal".

3. During hearing the case through video conferencing on 02.03.2021, we noted the observation made by this Tribunal in the last(but one) paragraph of our decision dated 29.11.2019 (quoted above). Shri Amit Mathur, the learned counsel for the newly impleaded respondents, had informed that an identical issue is pending adjudiation before the Hon'ble Supreme Court (in case of **Jarnail Singh** vs. **Lachhmi Narain Gupta**, SLP (c) No.30621/2011). The learned counsel for all the parties agreed that this was still the position, and that the matter involved in this OA cannot be decided till the Hon'ble Supreme Court took a decision in that matter. We have already recalled our earlier decision in this matter. Needless to mention, the parties must abide by the decision of the Hon'ble Supreme Court. Since, as agreed to by the counsels of all affected parties, we cannot take any decision in this matter due to pendency of the matter before

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the Hon'ble Supreme Court, no purpose will be served by keeping this OA pending before us.

4 The OA is, therefore, disposed of with liberty to the parties to approach this Tribunal with a fresh OA, if they have any new cause of action, or if any cause of action still persists, after the decision of the Hon'ble Supreme Court in the case quoted above. No costs.

(Hina P. Shah)
Member (J)

(Dinesh Sharma)
Member (A)

/kdr/