

OPEN COURT

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD  
ADDITIONAL BENCH AT ALLAHABAD

六十六

Allahabad : Dated this 16th day of April, 1997

CORAM.

Hon'ble Mr. S. Das Gupta, A.M.

Hon'ble Mr. T. L. Verma, J. M.

Review Application No. 2109 of 1993

On behalf of

IN

Original Application No. 592 of 1992

Sheo Pal Singh & Others, . . . . . , Applicants

## Versus

Union of India & Others. . . . . Respondents

ORDER (Oral)

Hon'ble Mr. S. Das Gupta, A.M.

This application has been filed by respondents in OA No.592 of 1992 seeking review of the order dated 22-11-1992 by which the aforesaid OA was disposed of.

2. In the aforesaid OA 10 applicants had approached the Tribunal challenging the refixation of their pay on the basis of which they were re-employed in the Ordnance Equipment Factory, Kanpur. The application was allowed. The respondents were directed not to make any recovery from the applicant and the refixation would only take place from the date the order was passed. It was also directed that if any recovery had been made from the applicants, the amount should be refunded to them.

3. The present application has been filed seeking review of the aforesaid order on the ground that the

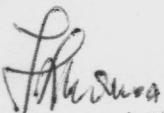
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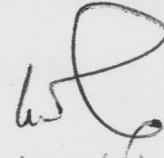
respondents could not bring to the notice of the Bench deciding the matter a contrary decision rendered by the Principal Bench of the Tribunal in ~~OA~~ OA No. 737/92 which was dismissed by their order dated 20-8-1992. In this OA the controversy also related to the alleged wrong fixation of pay and the relief clause inter alia included a prayer for restraining the respondents from making any recovery ~~from~~ the alleged overpayment. It is settled law that a judgement and order already rendered can be reviewed only if the same is shown to suffer from any error apparent on the face of record. It can also be reviewed, if any new fact is brought out, which warrants review of the order already passed, but which could not be brought earlier despite exercise of due diligence.

4. It is clear from the order passed that it does not suffer from any apparent error on the face of record. The only fact, which is now brought out is that there was an earlier order passed by the Principal Bench in a similar controversy, wherein the reliefs <sup>were</sup> prayed for ~~not~~ granted. This cannot be a ground for review of the order already passed unless it is held that the order dated 30-11-1992 is in fact per incuriam. No doubt, in similar controversy an earlier order has been passed by the Principal Bench, which is contrary to the order passed by this Tribunal. However, that alone cannot make the decision rendered by this Bench of the Tribunal per incuriam ~~as~~ there are several decisions of the Hon'ble Supreme Court like that rendered in the case of Bhagwan Shukla where it has been held by the Apex Court that where a re-fixation has been done without any mis-representation on the part of the employee, the payment already made as a result of such re-fixation cannot be recovered even though the earlier pay fixation is <sup>un</sup>correct and pay is <sup>re</sup>fixed.

subsequently.

5. In view of the foregoing, we find no merit in this review application and the same is dismissed accordingly.

  
Member (J)

  
Member (A),

Dube/