

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH
ALLAHABAD

REVIEW APPLICATION NUMBER 85 OF 2003

IN

O.A. NUMBER 916 OF 1998

ALLAHABAD THIS THE 10th DAY OF NOVEMBER, 2003

HON'BLE MAJ GEN K.K. SRIVASTAVA, A.M.

HON'BLE MRS. MEERA CHHIBBER, J.M.

Babu Lal and Ors.

.....Applicant

V E R S U S

UNION OF INDIA & ORS.

.....Respondents

O R D E R

By Hon'ble Mrs. Meera Chhibber, J.M.

This Review Application has been filed against the Judgment dated 30.07.2003 whereby the O.A. was dismissed, As the Judgment on which applicants had relied in the O.A., the subject matter of ^{same} ~~same~~ was referred to the Full Bench of the Tribunal as other benches had taken different views and after discussing ~~on~~ all the points raised by different parties, the Full Bench had held as under:-

" Pay Scale-Downgradation-Ministry of Defence upgraded the jobs of semi skilled grade (210-290) to the skilled grade Rs.(260-400) on the recommendation of Anomalies committee/ Third Pay Commission-Semi skilled Tailor Trade was also upgraded by various Units on seeking clarification from Army Headquarters-Ministry of Defence never upgraded the semi skilled tailors Trade-By impugned order respondents corrected the mistake and downgraded the applicants who are in Tailors Trade and also ordered recovery of difference of pay and allowances paid to the Held no infirmity in the order of downgrading



the Tailor Trade which was upgraded by mistake. However, order of recovery of the excess payments made on the basis of placing the applicants erroneously in a higher pay scale will not be enforced.

(B) Administrative Tribunals Act, 1985-Section 14-Jurisdiction of Tribunal-Whether a job be treated semi-skilled or skilled is a policy matter to be determined by the Ministry with the help of experts, who are acquainted with the nature of job-it is not for the Tribunal to declare a job to be skilled or semi-skilled.

(C) Non Speaking order-A Non speaking order of Apex Court is not a law declared by that Court- No benefit can be reaped from that

(D) Pay-Scale-Wrong decision-Merely because some employee gets benefit by a wrong decision of Bench cannot be a ground for granting benefit to others."

2. This Judgment was placed on record by the respondents counsel and since matter had already been concluded by the Full Bench naturally we sitting in a Division Bench ^{were} ~~are~~ bound by the same.

3. In the review application, counsel for the applicant has submitted that the order has been passed ex-parte as it was fixed for 12.08.2003 but was ^{therefore it may be reviewed} preponed to 30.07.2003. In this regard, it would be relevant to quote Rule 15(1) and (2) of CAT Procedure Rules 1987, which for ready reference reads as under:-

"15. Action on application for applicant's default-(1) Where on the date fixed for hearing of the application or on any other date to which such hearing may be adjourned, the applicant does not appear when the application is called for hearing the Tribunal may, in its discretion, either dismiss the application for default or hear and decide ~~in~~ on merit.

(2) Where an application has been dismissed for default and the applicant files an application within 30 days from the date of dismissal and



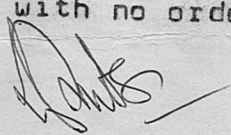
satisfies the Tribunal that there was sufficient cause for his non-appearance when the application was called for hearing, the Tribunal shall make order setting aside the order dismissing the application and restore the same.

Provided, however, where the case was disposed of on merit the decision shall not be reopened except by way of review."

Therefore, if the case was decided on merit on the date when it was listed before the court in the absence of counsel for the applicant, it cannot be a ground to file a Review application. Unless applicants are able to show that there is some error apparent on the face of record or ^{there is some} ~~the~~ other ~~some~~ apparent error of law. As far as preponing case is concerned, it was decided by Hon'ble Vice-Chairman with the concurrence of the Bar Association to prepone the case, which ^{were} ~~is~~ ready for hearing and for this purpose, a notification was issued and pasted on the notice board of the Central Administrative Tribunal and the list of cases, which were preponed, were also notified on the notice board ^{as well circulated in the C.A.T. list.} It was ~~the~~ duty of the counsel to check the notice board as this fact was known to all the Advocates that cases are being preponed. In any case, since the case was decided on the basis of decision rendered by Full Bench, wherein same point was discussed and decided naturally, there was nothing more ^{which is} ~~much~~ required to be deliberated by us. Counsel for the applicant has merely tried to re-argue the case on merit but since the matter is fully covered by the Full Bench, I do not think there is any good ground to interfere in the Review Application. The same is accordingly dismissed with no order as to costs.

shukla/-


Member (J)


Member (A)