

RESERVED

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH : ALLAHABAD

CIVIL MISC. REVIEW APPLICATION NO.91 OF 2003

IN

ORIGINAL APPLICATION NO.905 OF 2002
ALLAHABAD THIS THE 21st DAY OF April ,2004

HON'BLE MAJ GEN. K.K. SRIVASTAVA, MEMBER-A

G.P. Yadav,
aged about 38 years,
son of Shri Kishori Prasad Yadav,
R/o Village & Post-Gharahe Chaura,
(Thakurpur), District-Deoria(U.P.)
.....Applicant
(By Advocate Shri R. Verma)

Versus

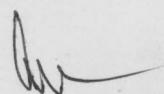
1. Union of India,
through the Director General,
Central Public Works Department,
Department of Central Public Works,
New Delhi.
2. Superintending Engineer,
Samanvaya Parimandal(Civil),
Central Public Works Department,
New Delhi.
3. Executive Engineer,
Central Public Works Department,
Allahabad Division, 76, Lukarganj,
Allahabad.

.....Respondents

(By Advocate Shri B.N. Singh)

ORDER

The order sought to be reviewed is dated 25.03.2003.
The application for the review has been filed on 26.09.2003.



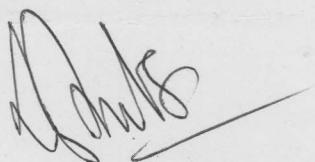
This application for review is also accompanied with an application under section 5 of the Limitation Act for seeking condonation of delay in filing of the review application. The delay condonation application has been opposed by the respondents by filing CA.

2. The applicant having not been satisfied with the order dated 25.03.2003 had filed a writ petition in the Hon'ble High Court which was dismissed on 09.07.2003 by the Hon'ble High Court. The Hon'ble High Court has never issued any direction in any manner to the U.O.I. for filing of the review application. It has only observed that the applicant has liberty to approach the Tribunal, if so advised, by filing a review petition. The delay condonation application has not explained in detail the circumstances in which a long gap running into months has taken place in filing of the review itself. The filing of the writ petition for invoking the extra ordinary powers is not in continuance of the proceedings. But giving regard to the Hon'ble High Court this Tribunal is entertaining the review petition. But in doing so the matter of limitation has to be considered. The respondents have filed the CA and number of details have been given in para 6 of the aforesaid counter affidavit showing that the U.O.I. has not been approaching the court with clean hands. Be that as it may be, the delay in filing of the review application is condoned.

3. The counsel for the respondents has invited our attention towards one glaring point that the order dated 09.07.2003 passed by the Hon'ble High Court has been sought to be reviewed by the very applicant in review before Hon'ble High Court. In this view of the matter, at present since the Hon'ble High Court has not disposed of the review petition filed against its own order dated 09.07.2003, the future of the same cannot be



predicted but till today the order dated 09.07.2003 passed by the Hon'ble High Court is intact. The affidavit accompanying the review application has been filed by the officer who is himself facing the contempt proceedings. The officer swearing the affidavit in support of the review application has averred in para 6 a,b,c,d,g,h,i about non-consideration of some factual and legal competence in the impugned order sought to be reviewed. This paragraph 6 of the affidavit has not been sworn on personal knowledge to demonstrate that the points contained in it were ever really urged before the Tribunal by the party concerned. This paragraph has been shown on perusal of records. This Tribunal has decided the lis between the parties by its order dated 25.03.2003 and it has contained all the points which were urged before it. The applicant for review cannot be permitted to raise fresh grounds and circumstances which were not brought before the Tribunal at the time of hearing of the O.A. which resulted in passing of the order dated 25.03.2003. The order dated 25.03.2003 does not call for any interference as it does not suffer from any error apparent on the face of record. The review petition is rejected.



Member-A

/Neelam/