

RESERVED

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH
ALLAHABAD

Dated : This the 10 day of 9 2008.

Misc. Application No. 1882 of 2008
IN
Original Application No. 1256 of 2007

Hon'ble Mr. A. K. Gaur, Member (J)

Mohit Pradhan

. . . Applicant

By Adv: Sri U.N. Sharma, Sri S. Mandhyan and Sri P.
Srivastava

V E R S U S

Union of India and others

. . . Respondents

By Adv: Sri S. Singh, Sri D.D. Chopra and Sri R.K.
Updhayaya

O R D E R

The applicant has filed Civil Misc. Application No. 1882/08 praying for recall of the order dated 06.08.2008, and for hearing of the matter.

2. Civil Misc. Recall Application dated 29.08.2008 was taken in the Court on 02.09.2008 as per mention made by Shri S. Mandhyan, learned counsel for the applicant in my chamber on 01.09.2008.

3. It is seen from the record that on 1/2-09-2008 following endorsement was made by the office in the order sheet:-

Misc. Recall Application No. 1882/08 filed for recalling of order dated 06.08.2008. QA was finally disposed of on

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25.08.2008. Submitted or orders on Recall Application on 02.09.2008, as unlisted."

4. The main prayer in the Misc. Application is for recall of order dated 06.08.2008, which has already become infructuous due to pronouncement of judgment on 25.08.2008, in Open Court. The order dated 06.08.2008 has already been superseded by judgment and order dated 25.08.2008.

5. The sole arguments advanced by the learned counsel for the applicant is with regard to non eligibility of Sri R.K. Updhayaya to appear as a counsel before this Tribunal. He submitted that a Bench of this Tribunal has already passed final order in OA 809/08 : V.K. Rai Vs. Union of India and others decided on 26.08.2008, debarring Shri R.K. Updhayaya from appearing as counsel before the Tribunal. From perusal of the record it is amply clear that the judgment in OA 1256/07 was reserved on 06.08.2008 and was duly pronounced by me in Open Court on 25.08.2008, whereas OA No. 809 of 2008 V.K. Rai Vs. U.O.I. & Ors was decided on 26.08.2008 by another bench of this Tribunal.

6. Earlier or during this interregnum no such objection with regard to non eligibility of Shri R.K. Updhayaya was ever pressed into service by the applicant. While examining the file before passing order on recall application, it is noticed that the judgment was signed and pronounced by me (In a matter cognizable by Single Member) in Open Court, while sitting in Division Bench

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with Hon'ble Mrs. Manjulika Gautan, AM. It is also seen that due to inadvertent mistake, of Bench Secretary no date could be mentioned at the top side of the order sheet. The order sheet reads as follows:

'Hon'ble Mr. A.K. Gaur, JM

Judgment pronounced today in Open Court. OA is dismissed.

Sd/-
JM"

7. The explanation of Bench Secretary was sought by me in this regard and he submitted his apology in the following manner:

"Hon. Sir,

03 cases so prepared for pronouncement on 25/8 in Ct No. III were pronounced after its usual display on Notice Board in the morning session. The list was prepared in Jud. Sec and the same was received in the Court for pronouncement.

After pronouncement, entries regd. Were made in the Register, case file etc. As regard inadvertent left out date in order sheet of OA 1256/07 - Mohit Pradhan Vs. U.O.I. & Ors, the same may pl. be excused. Entry of date be allowed to put in the order sheet.

A copy of list of pronouncement is attached for kind information."

"COURT NO. 3
CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH
ALLAHABAD

Hon'ble Mr. A.K. Gaur, JM

Date: 25.08.2008

Hon'ble Mrs. Manjulika Gautan, AM

Time : 10.30 AM

Pronouncement of order (Single Bench Cases)

(Reserved by Hon'ble Mr. A.K. Gaur, JM)

1.	OA 1037/04	A.K. Singh Vs. U.O.I. & Ors	Sri S. Mandhyan Sri Tej Prakash
2.	OA 1056/07	Mohit Pradhan Vs U.O.I. & Ors	Sri U.N. Sharma Sri S. Mandhyan Sri P. Srivastava Sri S. Singh Sri D.D. Chopra Sri U.K. Updhayaya

3.	OA 606/04	Tejpal Singh Vs U.O.I. & Ors	Sri R. Verma Sri S. Singh
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Sd/-
Section Officer

/pc/”

8. I also find from the order sheet dated 01.01.2008 that while granting interim order several pleas were taken by the applicant before a Bench of Hon'ble Mr. Justice Khem Karan, the then Vice-Chairman, but no such plea of non availability of Shri R.K. Updhayaya was raised before him. The bench concerned, stayed the order of transfer dated 20.12.2007 upto 18.01.2008. Lateron, the interim order was confirmed by Hon'ble Mr. Justice A.K. Yog, JM on 28.03.2008.

9. I also find from perusal of record that on 18.07.2008 the matter was placed before a Bench presided over by Hon'ble Mr. Justice A.K. Yog, JM and Hon'ble Mr. K.S. Menon, AM and their Lordships after considering the urgency of the matter directed the case to be listed peremptorily for hearing on 28.07.2008, but the applicant failed to take any objection with regard to non eligibility of Shri R.K. Updhayaya to appear as counsel before a Bench of this Tribunal even before the said Bench. A Writ Petition No. 25640 of 2008 was filed by the Respondents against the Interim order granted by the Tribunal and the same was finally disposed of on 27.05.2008 by the Hon'ble High Court. The operative portion of order reads as follows: -

“Having heard learned counsel for the petitioner and perused the records, we are not inclined to enter by the

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learned Tribunal, inasmuch as in our considered opinion interest of substantial justice would be served if the Tribunal is request to consider and decide the stay vacation application filed on behalf of the present petitioner on the next date fixed i.e. 26th May, 2008 and in case it is not possible to do so on the said date, the learned Tribunal is further requested to consider and decide the same, at the earliest possible preferably within one month from the date a certified copy of this order is filed before it.

With the aforesaid observations/ directions the present writ petition is disposed of."

10. The plea with regard to non eligibility of Sri Updhayaya to appear as an advocate before Tribunal was not even argued or taken before Hon'ble High Court, by the applicant. In these circumstances I must observe that the plea regarding non eligibility of Sri Updhayaya to appear as counsel before a Bench of this Tribunal was neither taken by the applicant at any stage nor it was brought to my notice at any point of time during the pendency of case. As per order dated 06.08.2008, judgment was reserved and the same was to be pronounced on a date to be notified for delivery of judgment.

11. A letter containing frivolous allegations, dated 04.09.2008 purported to have been written by the applicant was received by me in chamber on 05.09.2008 while I was dictating the order. This letter is addressed to Hon'ble Mr. Justice A.K. Yog, JM Head of Department, CAT, Allahabad with a copy thereof endorsed to me with a request not to pronounce order on the Misc. Application. Since I have already pronounced the judgment in the OA on 25.08.2008, the request made by the applicant has been rendered infructuous. I do not want to take any cognizance of such letter at this stage.

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12. I have given my thoughtful consideration on the plea advanced by the learned counsel for the applicant and in my considered opinion the main prayer of the applicant is to recall the order dated 06.08.2008 which has already been rendered infructuous due to pronouncement of judgment on 25.08.2008 in open Court. The order dated 06.08.2008 has already been superseded by judgment and order dated 25.08.2008. No prayer for recalling/reviewing of subsequent order has been made by the applicant. In any view of the matter the Recall Application is misconceived and deserves to be rejected and the same is accordingly rejected.

Anil Kumar
Member (J)

/pc/