

CENTRAL ADMINISTRATIVE TRIBUNAL

CALCUTTA BENCH

R.A. No. 49/SKM/97.

( OA 139/SKM/96 )

Present : HON'BLE DR. B.C. SARMA, ADMINISTRATIVE MEMBER.

HON'BLE MR. D. PURKAYASTHA, JUDICIAL MEMBER.

1. Comptroller & Auditor General of India,  
10, Bahadur Sha Zafar Marg,  
New Delhi-2.

2. Accountant General (Audit)  
Sikkim,  
Secretariat Building,  
Gangtok-737101.

... Petitioners.

Vrs.

Sri Surajit Panigrahi,  
S/o- Sri Pitbas Panigrahi,  
working on deputation under the  
Govt. of Sikkim as Accounts Officer,  
Gangtok, Sikkim.

... Respondents.

Counsel present at the time of final hearing of the O.A.

For applicants - Mr. S.K. Dutta, Counsel.

For respondents : Mr. Sonam P. Wangdi, Standing  
Counsel.

( Disposed of by Circulation )

Date of Order : 29.1.98

O R D E R

B.C.Sarma. AM.

1.8 This review application has been directed against the Order dated 6.5.1997 passed in O.A. 139 of 1996 (Sikkim). In that application the applicant therein had raised the dispute about the counting of contract service rendered by him under the Govt. of Sikkim and also as qualifying service <sup>and</sup> protection of his basic pay while he was under the State Govt. The application was opposed by the respondent nos. 1 and 2 therein, who are the present petitioners,

by filing a reply but no reply was filed by the respondent nos. 3 and 4. The application was disposed of with the following terms :-

"In view of the above discussion the application is allowed. The respondent nos. 1 and 3 are directed to give pay protection to the applicant in respect of his basic pay as per discussion made hereinbefore, and also count the period of past service rendered by the applicant under the State Govt. of Sikkim from 12.9.1985 to 25.3.1989 as qualifying service for the purpose of pensionary benefit. We also direct the said respondents to give him all other consequential benefits as per rules. We further direct that the above actions shall be taken by the respondents within a period of 3 months from the date of communication of this order. The application is thus disposed of at the stage of admission itself without passing any order as to costs."

The applicants, who are Controller & Auditor General of India, New Delhi and Accountant General (Audit) at Sikkim have applied for review of the order in this present petition.

2. The applicants contend that due to paucity of time they could not brief the Central Government Standing Counsel appearing on their behalf to argue the case and, as a result of which, a number of provisions in the rules could not be placed and those rules came to the knowledge of the instant petitioners subsequently while considering the order for implementation passed on 6.5.1997. The applicants further contend that Finance Ministry Order No. CGA O.M No. 14(5)/86/TA/1029 dated 9.12.1996 was wrongly referred to and relied upon by the petitioners in the O.A as the same does not apply in the manner placed by him. In other words, they have prayed for re-hearing of the matter.

3. I have carefully perused the contents of the review application and considered the facts and circumstances of the case. The scope of review is very limited. Such an application can be allowed only when there is an error apparent on the face of record or there has been subsequent discovery of new fact or information which could not be placed by the party despite his due diligence. It is not the applicants' case that there is <sup>/an</sup> error apparent on

the face of record. The applicants have only contended that they have failed to brief the Central Govt. Counsel for arguing the case on their behalf and certain rules came to their knowledge subsequently. I am afraid this cannot be a valid ground for reviewing the Order passed earlier. The rules which came to the knowledge of the applicants later was existed even at the time of passing the order and also hearing of the case in which the ld. Counsel for the instant applicants had appeared. It gives me impression, therefore, that they did not exercise diligence in the matter of briefing their counsel in this case, who had argued on their behalf. This is not a valid ground for review. The applicants also cannot pray for re-hearing of the matter, which is not permissible in a review application.

4. In this connection, the observation made by the Hon'ble Apex Court in the case of - Northern India Caterers (India) Ltd. Vs. Lieutenant Governor, Delhi, reported in AIR 1980 SC 674, is relevant. In this case the Hon'ble Apex Court had held that - it is well settled that a party is not entitled to seek a review of Judgement delivered by this Court merely for the purpose of rehearing and a fresh decision of the case. The normal principle is that, a Judgement pronounced by the Court is final and a departure from the principle is justified only when circumstances of a substantial nature and compelling character make it necessary to do so. In this case, I find, none of these contingencies has been pleaded by the applicants. On perusal of the review application, I find that there is no circumstance of a substantial nature and compelling character which warrants a review. In other words, there is no ground for review at all and the application is liable to be dismissed. The Judgement/Order dated 6.5.97 is an elaborate one and the points, which were raised before me, were adequately addressed before coming to the conclusion.