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**CENTRAL ADMINISTRATIVE TRIBUNAL
LUCKNOW BENCH**

Review Application No.24/2007

In

Original Application No.199/2007

This the 06th day of February 2009

HON'BLE MR. M. KANTHAIAH, MEMBER JUDICIAL.

R.P. Misra, aged about 64 years, S/o Late Sri S. Misra, Resident of 2/238, Vishal Khan, Gomti Nagar, Lucknow.

...Applicant.

By Advocate: Shri M.C. Joshi.

Versus.

1. Union of India, through the F.A. and C.A.O. N. Railway, Head Quarters Officer, Baroda House, New Delhi.
2. The Divisional Railway Manager, Northern Railway, Hazratganj, Lucknow.
3. The Senior Divisional Finance Manager, N. Rly. Divisional Office, Hazratganj, Lucknow.

...Respondents.

By Advocate: Shri S. Lawania.

ORDER

BY MR. M. KANTHAIAH, MEMBER JUDICIAL.

The applicant has filed the application to review the order passed by this tribunal on 03.08.2007 in main OA on the ground that in earlier OA also he claimed interest on delayed payments.

2. The respondents have filed objections on the ground that the application is not maintainable as per rules particularly without any prayer as provided under From-3 of Administrative Tribunal Act, 1985 and further by

way of this application the applicant wants to re-right the judgment dt. 03.8.2007, which is not at all maintainable.

3. Heard both sides.

4. The point for consideration is whether the applicant is entitled for the relief as prayed for.

5. The admitted facts of the case are that the applicant filed OA 352/2006 on the ground that inspite of several representations, the respondents are not paying the balance amount of PF and GPF through he retired long back on 30.7.2002 and upon which after hearing both sides, it was disposed of on 18.08.2006 with a direction that if the applicant given fresh application within a period of one month from today to the Respondent No.3 and he shall consider and dispose of application within a period of 3 month in accordance with rules (Ann.-A-2). In pursuance of the said directions, the applicant made fresh application (Ann-A-3) dt.28.8.2006 claiming balance amount of PF ,GPF with interest alongwith particulars of his earlier representation to the authorities but when there was no response, the applicant filed the present OA, i.e. OA 199/2007 claiming interest on the delayed payment but the same was dismissed on 03.08.2007 on the ground that no such prayer was made in the earlier OA i.e. OA.352/2006 and as such the present OA is hit by constructive res-judicata and on this ground, it has been dismissed.

6. Thereafter, the applicant has filed the present Review application on 24.8.2007 to review the orders of the tribunal dt. 03.08.2007 on the ground

that even in his earlier application O.A.No.352/2006, he made claim of interim relief on the held up amount of PF and GPF and even in the prayer portion at para 8 (i) in OA, also he sought such relief in respect of claim of interest.

7. On perusal of earlier OA 352/2006 (Ann-A-1), it is clear that in the relief portion Para-8 (i) he claimed interest on the withheld amount of PF and GPF amount and from this it is clear that the applicant was claiming interest on withheld amount from the beginning i.e. In his earlier OA 352/2006 and also in subsequent application dt. 28.8.2006 (AnnA-3) submitted in pursuant to the direction of the Tribunal claiming interest on such balance amounts. But, his OA 199/2007 was dismissed on the ground that he did not claim such interest in earlier OA and as such, it operates as constructive res-judicata which is not at all correct on the face of the record and as such, the application for review of the order of the tribunal dt. 03.08.2007 is liable to be reviewed hence, review application is allowed to review the order of the tribunal dt. 03.08.2007 in O.A.No.199/2007. No costs.

(M. KANTHAIAH)
MEMBER (J)

06.02.2009

Amit/.