

CENTRAL ADMINISTRATIVE TRIBUNAL LUCKNOW BENCH LUCKNOW

**REVIEW APPLICATION NO: 2/2011
IN
CIVIL CONTEPT PETITION NO: 19/2010
IN
ORIGINAL APPLICATION NO: 673/1994**

This, the 25th day of February, 20110

**HON'BLE JUSTICE SHRI ALOK KUMAR SINGH, MEMBER (J)
HON'BLE SHRI S. P. SINGH, MEMBER (A)**

1. Pran Vir Singh Chauhan, aged about 57 years, son of Late Shri B.B. S. Chauhan, resident of 4/147, Vivek Khand, Gomti Nagar, Lucknow (presently posted as Scientist C, Central Ground
2. Ajay Vir Singh, aged about 51 years, son of Late Shri Bishram Singh, presently posted as Scientist 'C', Central Ground Water Board, (Uttaranchal Region), 419-A, Kanwali Road, Balliwada, Urja Bhawan, Dehradun.
3. Arun Kunar, aged about 57 years, son of Late Shri Prem Prakash Saxena, presently posted as Scientist 'C', Central Ground Water Board, (Northern Region), Bhujal Bhawan, Sector 'B' Sitapur Road Yojana, Lucknow.
4. Abhay Kumar Pandey, aged about 54 years, son of Shri Markandey Pandey, presently posted as Scientist 'C', Central Ground Water Board, (Uttaranchal Region), 419-A, Kanwali Road, Ballwada, Urga Bhawan, Dehradun. Ravindra Kumar Rajpur, aged about 52 years, son of Late Shri Shanker Singh, presently posted as Scientist 'B', Central Ground Water Board, (Northern Region), Bhujal Bhawan, Sector 'B' Sitapur Road Yojna, Lucknow.
6. Ganesh Dutt Bartghwal, aged about 53 years, son of Late Shri B.D. Barthwal, presently posted as Scientist 'C', Central Ground Water Board, (Uttaranchal Region), 419-A, Kanwali Road, Balliwada, Urja Bhawan, Dehradun.
7. Ram Chandra Verma, aged about 57 years, son of Late Shri Babu Ram, presently posted as Scientist 'C', Central Ground Water Board, (Northern Region), Bhujal Bhawan, Sector 'B', Sitapur Road Yojna
8. Ajay Kumar Bhargava, aged about 56 years, son of Shri L.P. Bhargava, presently posted as Scientist 'C', Central Ground Water Board, State Unit Office, 276 Kaushambi Road, Chakia, Allahabad.
9. Sanjeev Mehrotra, aged about 47 years, son of Shri K.C. Mehrotra, presently posted as Scientist 'C', Central Ground Water Board, (North Central Region), Block No. 1, 4th floor, Paryavas, Arera Hills, Jail road, Bhopal.
10. Bhuvan Chandra Joshi, aged about 51 years, son of Late Shri T.B. Joshi, presently posted as Scientist 'C', Central Ground Water Board, (Northern Region), Bhujal Bhawan, Sector 'B', Sitapur Road Yojna, Lucknow.
11. Arun Kumar Srivastava, aged about 63 years, son of Late Shri D.N. Srivastava, resident of C-1/209, Sector 'G', Jankipuram, Lucknow (retired as Scientist B, Sitapur Road Yojna, Lucknow).

Applicants

By Advocate Shri R.C. Singh.

Versus

1. Sri Umesh Narayan Panjhar, IAS, Secretary, Ministry of Water Resources, Government of India, Shram Shakti Bhavan, New Delhi.
2. Sri B.M. Jha, Chairman, Central Ground Water Board, Government of India, Ministry of Water Resources, Bhujal Bhawan, NH-IV, Faridabad (Haryana).

Respondents

Order (Under Circulation)

By Hon'ble Shri S. P. Singh, Member -A

This Review Application has been filed under Section 22 (3) (f) of Administrative Tribunal Act, 1985 read with Rule 17 of the Central Administrative Tribunal CAT (Procedure) Rules, 1987 against the judgment and order of this Tribunal's dated 20.12.2010 in Contempt Petition (Civil) No. 19/2010 arising out of Original Application No. 673 of 1994.

2. Contempt Petitions in the Tribunal are filed under Section 17 of AT ACT. A Tribunal shall have, and exercise, the same jurisdiction, powers and authority in respect of contempt of itself as a High Court has and may exercise and, for this purpose, the provisions of the Contempt of Courts Act, 1971 (70 of 1971), shall have effect subject to the modifications that-

(a) the references therein to a High Court shall be construed as including a reference to such Tribunal;

(b) the references to the Advocate-General in Section 15 of the said Act shall be construed,-

(i) in relation to the Central Administrative Tribunal, as a reference to the Attorney-General or the Solicitor -General or the Additional Solicitor-General; and

(ii) in relation to an Administrative Tribunal for a State or a Joint Administrative Tribunal for two or more States, as a reference to the Advocate General of the State or any of the States for which such Tribunal has been established.

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3. The Central Administrative Tribunal has adopted the provisions of Contempt of Courts Act with suitable amendment in CAT (Contempt of Courts) Rules 1992. In the Contempt of Courts Act, 1971 (70 of 1971), there is no provision regarding filing of a review in respect of judgments either in Contempt Petition(Civil) in respect of Civil Contempt and Contempt petition (Criminal) in respect of Criminal Contempt. It is also worthwhile to mention here that any other provisions of Administrative Tribunal Act 1985, will not have an overriding effect in matters coming within the purview of powers conferred by Contempt of Courts Act,1971(Act 70 of 1971)

4. Otherwise also, the review can be made only when there is error apparent on the face of record or on discovery of any new or important material which even after exercise of due diligence was not available with the review applicant.

5. An erroneous decision and a decision which could be characterized as vitiated by "error apparent" has been distinguished by three judges Bench of Hon'ble Supreme Court in ***M/s Thungabjhadra Industries Ltd. Vs. Govt. of Andhra Pradesh reported in AIR 1964 Supreme Court 1372.*** It was held that 'A review is by no means an appeal in disguise whereby an erroneous decision is reheard and corrected, but list only for patent error. Where without any elaborate argument, one could point to the error and say here is a substantial point of law which stares one on the fact, and there could reasonably be no two opinions entertained about it, a clear case of error apparent on the fact of the record would be made out.' In 2002 Supreme Court Cases (L&S) 756 in the case of ***K.G. k Derasari and Another Vs. Union of India and others,*** it was observed by the Apex court that any attempt , except to an attempt to correct and apparent error or an attempt not based on any ground set out in order 47, would amount to an abuse of the liberty given to the Tribunal under the Act to review its judgment. The Tribunal cannot proceed to reexamine the matter as if it is

**Original Application before it in the light of the ratio given in
Subhash Vs. State of Maharashtra and other reported in AIR 2002
Supreme Court 2537.**

Up shot of the above stated rulings given by the Hon'ble Supreme Court, would be that the Tribunal cannot hear the review application as appeal. A review cannot be sought merely for a fresh hearing or arguments or correction of erroneous view taken earlier. If the review applicant is not satisfied with the orders passed by the Tribunal, remedy lie elsewhere.

The Apex Court in Union in Union of India Vs. Tarit Ranjan Das 2004 SCC (L&S) 160 observed as under:-

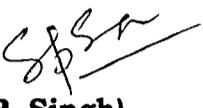
"The Tribunal passed the impugned order by reviewing the earlier order. A bare reading of the two orders shows that the order in review application was in complete variation an disregard of the earlier order and the strong as well as sound reasons contained therein whereby the original application was rejected. The scope of review is rather limited and is not permissible for the forum hearing the review application to act as an appellate authority in respect of the original order by a fresh order and rehearing of the matter to facilitate a change of opinion on merits. The Tribunal seems to have transgressed its jurisdiction in dealing with the review petition as if it was hearing an original application . This aspect has also not been noticed by the High Court."

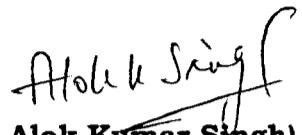
6. In view of the facts and circumstances mentioned above, it can safely be concluded that review application is not maintainable against the order passed in contempt case as there is no provision in the Contempt of Courts Act 1971, the provisions of which have been adopted under CAT (Contempt of Courts) Rules 1992. Otherwise also,

the review petition is not maintainable as mentioned in paragraph Nos. 4 and 5.

7. In view of the above, the Review Application is liable to be dismissed as not maintainable.

8. The Review Application is dismissed in circulation having regard to the position as stated in paras above.


(S.P. Singh)
Member (A)


(Justice Alok Kumar Singh)
Member (J)

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copy of answer
dated 25.2.2011
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04.3.2011