

Central Administrative Tribunal, Lucknow Bench, Lucknow

This the 31st day of August, 2006

Review Application No. 11 of 2006 in Original Application No. 73/2005

Hon'ble Shri M. Kanthaiah, Member (J)

I. Kholendra Singh son of shri I. Kulabindu Singh posted as F.O. (T) and
11 others. ...Applicants

By Advocate: Shri R.D.Agrawal

Versus

Union of India and others through Director General, SSB, East Block- V,
R.K. Puram, New Delhi and another.

...Respondents

By Advocate: Shri K.K.Shukla

ORDER

By Hon'ble Shri M. Kanthaiah, Member (J)

The applicants has filed Application under Rule 17 of the CAT
(Procedure) Rules, 1987 with a prayer to review the orders of the Tribunal
dated 14th December, 2005 on the following grounds:-

- i) The order of the Tribunal is patently erroneous as there is no change in service conditions of the civilians after its control came under the Ministry of Home Affairs from the Cabinet Secretariat in 2001.
- ii) Even after 2001 and when it came under the control of Ministry of Home Affairs, the Cash Compensatory Allowances having been paid upto 2003 and stopped subsequently.
- iii) The Tribunal has erroneously arrived at the conclusion that the Govt. has stopped payment of Cash Compensatory Allowance instead of its subordinate against the order of the Government.
- iv) There was no change of service condition of civil employees of SSB even after its control came to Ministry of Home Affairs
- v) Subsequently, the cash compensatory allowance has again been revived w.e.f. 16th November, 2005 basing its order on Cabinet Secretariat

Letter No. A-27011/4/86-EA-II dated 18.12.87 which clearly shows that stoppage of cash compensatory allowance of earlier period of 2 years by the Head of Department.

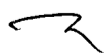
2. The applicant has filed O.A. directing the respondents to give cash compensatory allowance in lieu of compensatory leave to the applicant for the year 2004 and onwards and also consequential relief.

3. After due consideration, the Tribunal has passed the order on 14.12.2005 dismissing the claim of the applicant. The operative portion of the order is as follows:-

“From the perusal of records, it appears that the SSB is now doing the duties of Border Guarding like BSF and ITBP. It is being restructured on the pattern of BSF. SSB, in the changed scenario, cannot be compared with IB and RAW. The allowances admissible to the personnel of IB and RAW cannot be made available to the applicants. It would be clear that this is a policy decision of the Govt. which is in the exclusive domain of the executives. What allowances should be admissible to them cannot be adjudicated by the courts. Parity in allowances is to be looked into by the expert bodies. Courts have neither got the expertise to examine work and duties of the personnel in a Department and accord parity nor have the jurisdiction to interfere with the policy decision of the Government. “

4. Against the said dismissal, the applicant has filed the present application for review of order dated 14th December, 2005 on the ground that the Tribunal has not considered their request and also grounds taken for claiming the relief directing the respondents to pay cash compensatory allowance in lieu of compensatory leave for the year 2004 onwards because the same was stopped by the authorities but the Tribunal has given a finding that the claim of the applicant shows that it is a policy decision of a Government which is in the exclusive domain of the executive and with such findings, dismissed the claim of the applicant.

5. Now by way of this application filed under Rule 17 of the CAT (Procedure) Rules, 1987, the applicant has taken many number of grounds which is possible to consider only by way of appeal but not within the purview of review, as claimed by the applicant. The scope of review is



only limited to the extent if there is any error on the face of record or on discovery of any new and important material which even after exercise of due diligence was not available with the applicant but whatever the applicant is seeking is beyond the scope of review and considering such pleas is nothing but re-hearing the applicant and re-appraisal evidence on record which is within the scope of appeal. As such there is no justified ground to interfere the claim of the applicant for review of the orders of the Tribunal dated 14th December, 2005.

6. In view of the above , review applicant is liable to be dismissed.

It is dismissed.


(M. Kanthaiah)
Member (J)

31.8.06

HLS/-