

**CENTRAL ADMINISTRATIVE TRIBUNAL,
LUCKNOW BENCH,
LUCKNOW.**

Review Application No. 48 of 2009

In re.

Original Application No. 153 of 2006

Reserved on 3.4.2014

Pronounced on 15th April 2014.

**Hon'ble Mr. Navneet Kumar, Member-J
Hon'ble Ms. Jayati Chandra, Member -A**

1. Secretary, Department of Posts, Government of India, Dak Bhawan, New Delhi.
2. Director Postal Services, Office of the Chief Post Master General, U.P., Lucknow.
3. Superintendent of Post offices, Sitapur Division, Sitapur

..... Review Applicants
By Advocate: Sri Praveen Kumar for Sri G.K. Singh.

Versus.

Amit Mishra Respondent

By Advocate: Sri R.S. Gupta.

O R D E R

By Ms. Jayati Chandra, Member-A

This Review Application has been filed under Section 22 (3) (f) of Administrative Tribunals Act, 1985 read with under Rule 17 of Central Administrative Tribunals (Procedure) Rules, 1987 praying for review of the judgment and order dated 4th August, 2009 passed in O.A. no. 153 of 2006.

2. The grounds for review taken in the Review application are that the appeal of the applicant had already been decided by the competent authority on 28.3.2006 and the same was very much on records alongwith the Supplementary Counter Affidavit filed by the respondents on 17.12.2007; the applicant (respondent herein) was fully aware about the decision of appellate authority, but he did not challenge the same by concealing the material fact; the respondents have never said that that neither the request for supply of documents nor the request for holding an inquiry was

J. Chandra

relevant and lastly the observations made in the order under review that an amount of Rs. 1,93,400/- has been ordered to be recovered from Sri D.K. Shukla is also erroneous as there is no such order produced by either of the parties. Infact the recovery of Rs. 22,000/-ordered to be made from the applicant is the proportionate amount against the total loss.

3. No Counter Reply has been filed by the respondent till date even after issuance of notice vide order dated 6.7.2010 and thereafter the case was listed on so many times and remained pending upto 3.4.2014. Ultimately, after hearing the counsel for the parties, the case was reserved on 3.4.2014. It is settled preposition of law that when a party fails to file any reply in rebuttal to the pleadings, then the pleadings of the claimant/applicant are deemed to have been accepted. Even otherwise, we notice that though the appellate order was very much available with the Supplementary Counter Reply filed by the respondents on 7.12.2007, the Tribunal inadvertently overlooked it by observing that the decision of appellate authority has not been brought on record by either of the party. Secondly, the applicant had concealed the material fact by not disclosing that his appeal has already been decided and he ought to have challenged the same through an amendment application or by filing a Separate original Application, which he failed to do so. Further, the Tribunal inadvertently mentioned in order, under review, that the respondents have simply rejected the request by saying that neither the request for supply of documents nor the request for holding an inquiry was relevant; whereas as per para 21 of the Counter Reply filed by the respondents wherein it has been stated that the relevant and available documents were shown to the applicant and as such it cannot be said there was no need for holding an inquiry.

4. In view of the aforesaid, it is, therefore, clear that there is apparent error in the order under review and as such it needs to be reviewed. Accordingly, the judgment and order dated 4th August, 2009 passed by this Tribunal in Original Application no. 153 of 2006 is hereby recalled and Original Application is directed to be listed before the Bench for hearing.

J. Chauhan

5. The Review Application is allowed in the aforesaid terms. No costs.

6. Since O.A. pertains to the year 2006, hence it may be listed for hearing on 12.5.2014 under intimation to the parties' counsel.

J. Chandra
(Ms. Jayati Chandra)
Member -A

Mr. Agrawal
(Navneet Kumar)
Member-J

Girish/-