

Und

CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH

ORIGINAL APPLICATION NO.: 765/98 & 885/99 ✓

Dated this *Monday* the *3rd* day of *December*, 2002.

CORAM : Hon'ble Shri B. N. Bahadur, Member (A).
Hon'ble Shri S. L. Jain, Member (J).

ORIGINAL APPLICATION NO.: 765 of 1998.

1. Raghunath V. Modak,
410, Narayanpeth,
Pune - 411 030.
2. Manohar Moreshwar Pethe,
1730, Sadashivpeth,
Pune - 411 030.
3. Chandrakant Chintaman Deshpande,
76/706, Gokhale Nagar,
Pune 411 053.
4. Raghunath Anant Joshi,
14/A, Anupam Heights Co.op.
Housing Society, Plot No. 38,
Rambaug Colony, Paud Road,
Pune - 411 038.
5. Dilip Vishwanath Bhawe,
1433, Shukrawar Peth,
Tulpule Wada,
Pune - 411 002.
6. Damodar Govind Sathe,
C/3, Eravti Alkapuri Housing
Society,
Kothrud, Pune - 411 029.
7. Shri Shewak Daulatram Advani,
Block No. 25, Connought House,
Pune - 411 001.
8. Hashu Daulatram Advani,
Flat No. 212, Bldg. No. 12,
Mira Society, Salisbury Park,
Pune - 411 037.
9. Madhusudan Vishnu Herlekar,
A-1/16, Rambagh, Navi Peth,
Pune - 411 030.
10. Sitaram Ganesh Upadhye,
586, Narayan Peth,
Pune - 411 030.

11. S. M. Auchare,
M-28-2320, Maharashtra
Housing Board,
Sr. No. 191-A, Yerwada,
Pune - 411 006.
12. Ratnakar Dattatraya Deo,
A/4/7, Raksha Lekha Society,
Dattawadi,
Pune - 411 030.
13. Manohar Sakharam Gijawanekar,
Raksha Lekha Society No. 2,
Gajendra Nagar, Bldg. No. 1/4,
Flat No. 23, Dattawadi,
Pune - 411 030.
14. Laxman N. Sapre,
332/A, Bhurkar Bhawan,
Shukarwar Peth,
Pune - 411 002.
15. Bhalchandra Sadashiv Walimbe,
1047, Sadashiv Peth,
Pune - 411 030.
16. Baban Narayan Nanaware,
S.No. 311, House No. 132,
Sasanenagar, Hadapsar,
Pune - 411 028.
17. Madhukar Nagesh Joshi,
Ranade Quarters Room No. 3,
At & Post Dehu Road.
18. Dattatraya Narayan Shukla,
20/A, Raksha Lekha Housing
Society, Dhankavadi,
Pune - 411 043.
19. P. D. Rajpathak,
C/o. Suyog Medical Agency,
640, Narayan Peth,
Pune - 411 030.
20. Vinayak Ramkrishna Athalye,
Khadgeswar, 14/A, Raksha
Lekha Society,
Pune - 411 043.
21. Sadanand Dnydeo Nagaonkar,
203, Kalbhor Nowas,
Bankar Colony,
Opp. A.I.R. Hadapsar,
Pune - 411 028.
22. Laxman Govind Tagade,
65, Sahakarnagar,
Ahmednagar.

23. Vinayak Chimnaji Jategaonkar,
3/11, D.A.D. Complx,
Bhawani Peth, Pune - 411 042.
24. Suresh Govind Wagh,
308, Gurukripa Shri Ganesh
Society, Sahakarnagar No. 1,
Pune - 411 009.
25. Goraksing Pandurang Pardeshi,
Profile Cresnet,
Plot No. 20, Flat No. 3,
Kanchanganga Society,
Market Yard, Pune - 411 037.
26. Madhavdas Chunilal Modi,
63/B, Raksha Lekha Society,
Dhankawadi, Pune - 411 043.
27. Govind Dattatray Uchgaonkar,
Shri Mangal Co.Op Housing
Society, B/2/1, Shivshakti
Gas Agency, Building,
Dhankawedi, Pune - 411 043.
28. Pandurang T. Joshi,
1045, Sadashiv Peth,
Pune - 411 030.
29. K. M. Sreenivasan,
Ambre Chawl, Amboli,
Caesar Road, Andheri (W),
Bombay - 400 058.

... Applicants.

(By Advocate Shri S. P. Saxena)

VERSUS

1. The Union of India through
The Secretary,
Ministry of Defence,
New Delhi - 110 011.
2. The Secretary,
Ministry of Finance,
Government of India,
(Deptt. of Expenditure),
New Delhi - 110 011.
3. The Controller General of
Defence Accounts,
West Block V, R. K. Puram,
New Delhi - 110 066.
4. The Controller of Defence
Accounts, Southern Command,
Pune - 411 001.

5. The Controller of Defence
Accounts (O),
Golibar Maidan,
Pune - 411 001.

6. The Controller,
C.D.A. (Navy),
Colaba, Mumbai.

7. The Controller,
C.D.A.,
Bangalore.

... Respondents.

(By Advocate Shri R. R. Shetty
appearing with Shri R. K. Shetty).

ORIGINAL APPLICATION NO.: 885 of 1999.

Shri Yashavant A. Inamdar,
Plot No. 43, Mangalmurthy Housing
Society, Valvali Section,
'B' Cabin Road,
Near Pathare Park,
Ambernath - 421 501.

... Applicant.

(By Advocate Shri R. P. Saxena)

VERSUS

Union of India through
The Controller General of
Defence Accounts,
West Block-V,
R. K. Puram,
New Delhi - 110 066.

2. The Chief Controller of
Accounts (Factories),
10-A, Auckland Road,
Calcutta - 700 001.

3. The Controller of Defence
Accounts (Navy),
No. 1, Cooperage Road,
Mumbai - 400 039.

... Respondents.

(By Advocate - Shri R. R. Shetty
appearing with Shri R.K. Shetty).

O R D E R

PER : Shri B. N. Bahadur, Member (A):

We are hearing the two O.As. namely - O.A.No. 765/98 and
885/99 in view of the following background :

These two O.As. were referred to Hon'ble Chairman, Central Administrative Tribunal, by a common order by this Bench on 14.02.2002, the Bench decided to make a reference to the Hon'ble Chairman, and to constitute a Larger Bench to decide the issue raised. This was done since while we had arrived at a view that the O.As. could not be allowed but that we were constrained in taking this view in view of a decision taken by Ernakulam Bench in M.P. Thomas' case. Subsequently, the Full Bench, before which these O.As. were placed has made its orders on 23.07.2002. This (three Member) Bench has stated, that in its view, the Division Bench after having disagreed with the judgement of a Single Judge, ought not to have made the reference. Also, that it was within its right to decide the present O.As. on merits in terms of the decision rendered by it. The three Member Bench finally remitted the two O.As. back to the Division Bench for decision in accordance with law.

2. We have heard the Learned Counsel in the two O.As. Shri S.P. Saxena has argued a point of law. Shri R. P. Saxena, on the other hand, wanted to agitate some points on merits which we have not allowed since arguments were concluded and conclusion reached. However, he raised a plea regarding his relief at para 8 (4) of the O.A. which we will come to later. Learned Counsel, Shri S.P. Saxena, made the point that it was not in accordance with law and the Administrative Tribunals Act for a three Member Bench to refer the present O.As. back to the Division Bench. He argued the legal point at some length. The points raised by him in gists were that there is no system in

the Tribunal that a decision by a Single Member Bench being appealed to a Division Bench. In other words, Learned Counsel argued that it was right on the part of Division Bench to have held its hand and not go against the Single Member Bench judgement of Ernakulam. He also argued that there was no order, as such made by the three Member Bench and hence it was open to the Division Bench even now to again refer the case back to the three Member Bench. He reiterated that the decision of the Ernakulam Bench, even though a Single Member Bench in M.P. Thomas' case was fully binding on the Division Bench.

3. Learned Counsel for Respondents, Shri R.R. Shetty appearing for Shri R. K. Shetty, opposed the view and argued that he had quoted the judgement of a Full Bench made in O.A. No. 1348/95 in the matter of Shoba Zende V/s. Union of India before Full Bench. He showed us copy and contended that dictum in this decision was followed by three Member Bench in its order dated 23.07.2002..

4. The basic point that is clear to us is that we, in the Division Bench, are bound by the decision made by the three Member Bench. The three Member Bench has clearly and categorically arrived at a conclusion that judgement of a Single Member Bench can be disregarded by a Division Bench and that a reference to it ought not to have been made.

5. Learned Counsel, Shri S.P.Saxena, had argued that there is no provision in the C.A.T. (Practice) Rules/Act which provides for over-ruling of a decision of Single Member Bench by a Division Bench since these are binding on each other. However, as stated

above, we are in no position to raise an issue in the event of a decision of the three Member Bench which is clear. We are bound by it and accordingly have to make the orders in the present O.A. in consonance with the conclusion/s reached by us while making the reference to Full Bench and without being constrained by the decision/order of Single Judge.

6. Accordingly, these two O.As. namely - O.A. No. 765/98 and 885/99 are liable to be dismissed and are hereby dismissed. No costs.

(S. L. JAIN)
MEMBER (J).

(B. N. BAHADUR)
MEMBER (A).

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