

(IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
MUMBAI BENCH, 'GULESTAN BUILDING' NO.6  
PRESCOT ROAD, FORT, MUMBAI 400001.

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Dated this 18<sup>th</sup> day of June 1996.

Review Petition No. 94/95 in O.A. No. 75/93.

CORAM : 1) Hon'ble Shri B.S. Hegde, Member (J)  
2) Hon'ble Shri P.P. Srivastava, Member (A)

Shri E.K. Ramakrishnan

By Shri S.P. Saxena,  
Advocate

... Applicant

v/s

Union of India & Others

By Shri R.R. Shetty for  
Shri R.K. Shetty,  
Central Govt. Standing  
Counsel

... Respondents

O R D E R

[ Per: Shri B.S. Hegde, Member (J) ]

Heard Shri S.P. Saxena for the applicant and Shri Ravi Shetty for the Respondents. The applicant filed this R.P. No. 94/95 seeking that the O.A. 75/93 which was listed for final hearing and disposed of on 8-6-1995 be recalled for the reasons stated in the R.P. The O.A. was disposed of by the Tribunal vide its order dated 8-6-1995. At that time, the applicant's counsel was not present; only the Respondents' counsel was present. The Tribunal in its order has observed that there is no advocate for the applicant and Shri R.K. Shetty, counsel for the Respondents appeared.

2. The learned counsel for the applicant Shri S.P. Saxena draws our attention that he has filed M.P. 75/93

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on 29-5-1995. However, the Tribunal's office did not put up the M.P. before the Tribunal when the matter came up for hearing on 8-6-1995, as a result, the Tribunal not being aware of the existence of the said M.P. of the applicant's advocate seeking for adjournment of the hearing, heard the application in the absence of the applicant's advocate and finally decided ex-parte by its judgement dated 8-6-1995.

3. Subsequent to the disposal of the O.A. by the Tribunal, the applicant filed M.P. No. 463/1995 for restoration of the O.A. However, the Tribunal by its order dated 26-6-1995 had observed that since the decision in the O.A. was rendered on merit by the order dated 8-6-1995, the M.P. for restoration is not maintainable. Accordingly, the M.P. was disposed of, however, with a liberty to the applicant if he is so advised, to file an application for the review. Pursuant to the directions of the Tribunal, he has filed the review petition. He also drew our attention that the Tribunal had disposed of the O.A. on the statement made by the learned counsel for the Respondents that a similar matter is under consideration before the Principal Bench, New Delhi and the Tribunal had directed that the applicant's claim would abide by the relief which may be granted in that case. The learned counsel for the applicant also submitted that the Respondents' counsel did not give the number of the O.A. nor any particulars of the case which is allegedly pending before the Principal Bench and in the absence of full details, it is not possible for the applicant or for that matter for any prudent man to find out about


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the application mentioned in the judgement. The Respondents did not care to give any particulars about the pending petition before the Principal Bench and obtained ex-parte decision of the Tribunal behind the back of the applicant. He also further submitted that the O.A. pending before the CAT, New Delhi was quite different and distinct compared to the reliefs sought in this O.A. and therefore it would be quite unjust and unfair to the applicant to deny the relief sought in the O.A. 75/93 and to abide by the decision delivered by the Principal Bench. It is incorrect to state that the O.A. was dismissed on merit; it is only stated that the applicant was governed by the decision rendered by the Principal Bench. So far, no such decision is rendered by the Principal Bench, accordingly, he urged that the matter be heard on merit and the O.A. be restored on file.

4. Though the Respondents have filed reply to the R.P. opposing recalling of the O.A., however, on perusal of the same, we are not satisfied with the explanation offered by the Respondents. In the circumstances, we are perforced to restore the O.A. 75/93 and hear the same on its merits. Accordingly, the R.P. 94/95 is allowed. The Registry is directed to place the O.A. for hearing after giving notice to the parties. Copy of the order be given to the parties.

  
(P.P. Srivastava)  
Member (A)

  
(B.S. Hegde)  
Member (J)

ssp.

leave notice  
receivable  
24.7.96  
S. S. S. S.  
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