

(2)

CENTRAL ADMINISTRATIVE TRIBUNAL  
BOMBAY BENCH

Original Application No: 160/95

Transfer Application No:

DATE OF DECISION: 28.2.95

Suresh Krishanaji More Petitioner

Shri D.V.Gangal Advocate for the Petitioners

Versus

Union of India and Amr. Respondent

S Advocate for the Respondent(s)

CORAM :

The Hon'ble Shri B.S. Hegde, Member (J)

The Hon'ble Shri M.R. Kolhatkar, Member (A)

1. To be referred to the Reporter or not ?
2. Whether it needs to be circulated to other Benches of the Tribunal ?

  
(B.S. Hegde)  
Member (J)

(3)

CENTRAL ADMINISTRATIVE TRIBUNAL  
BOMBAY BENCH

Original Application No. 160/95

Suresh Krishanaji More

... Applicant.

V/s.

The Commissioner of Income tax  
Karve Road, Erandawana  
Pune.

Union of India  
Ministry of Finance  
Department of Revenue,  
(Income tax) New Delhi.

... Respondents.

CORAM: Hon'ble Shri B.S. Hegde, Member (J)

Hon'ble Shri M.R. Kolhatkar, Member (A)

Appearance

Shri D.V. Gangal, counsel  
for the applicant.

None for the respondents.

ORAL JUDGEMENT

Dated: 28.2.95

( Per Shri B.S. Hegde, Member (J) )

Despite the notice having been served on the respondents neither they appeared nor filed any reply. In the circumstances, the learned counsel for the applicant draws our attention to order dated 23.10.92 (Annexure-A-1) passed by the Commissioner of Income-Tax, Pune stating that:

" the treatment of duty period from the date of dismissal from service upto the date of reinstatement, the continuation and completion of the proceedings as per CAT's order and allied matters. Separate orders will follow."

Despite the same, the respondents have not passed any order. In the circumstances, the learned counsel for the applicant submits that the Tribunal may give suitable directions to the respondents to pass appropriate order in accordance with FR 54(B).

We are satisfied with the contention of the applicant. We, hereby direct the respondents to pass an appropriate order in accordance with FR 54(B) within a period of 15 days from the date of receipt of this order. O.A. is disposed of accordingly.

M.R.Kolhatkar

(M.R.Kolhatkar)  
Member (A)

B.S.Hegde

(B.S.Hegde)  
Member (J)

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(5)

BEFORE CENTRAL ADMINISTRATIVE TRIBUNAL

BOMBAY BENCH

R.P. NO. 49/95

in

O.A. NO. 160/95

Commissioner of Income-tax,  
Karve Road, Erandvane, Pune  
and Anr.

... Petitioners

v/s

Shri Suresh Krishnaji More ... Respondent

CORAM : 1) Hon'ble Shri B.S. Hegde, Member (J)  
2) Hon'ble Shri M.R. Kolhatkar, Member (A)

Tribunal's orders (by circulation) Dated: 10-4-95  
(Per: Hon'ble Shri B.S. Hegde, M(J)).

1. The O.A. was disposed of keeping in view the order passed by the Respondents vide dated 23-10-1992 (Annexure A-1) passed by the Commissioner of Income Tax, Pune stating that "the treatment of duty period from the date of dismissal from service upto the date of reinstatement, the continuation and completion of the proceedings as per CAT's order and allied matters. Separate orders will follow."
2. Despite above, the Respondents have not passed any orders till the disposal of the O.A. Accordingly, we gave directions to the Respondents to pass appropriate orders under FR 54 (B) within a period of 15 days from the date of receipt of its order. The Respondents have filed a review petition stating that the O.A. 160/95 came to be served on the Respondents vide CAT's letter

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dated 8th February 1995 alongwith a copy of the proceedings dated 6th February 1995 on 13-2-1995 itself. This notice indicated the hearing fixed on 13-2-1995 and the notice came to be served on 24-2-1995 and came to be received in his office on 9-3-1995. Hence, the Department could not appear before the Tribunal on 28th February 1995. It can be noted that pursuant to the prayer made by the Applicant stating that the Applicant is entitled to full pay and allowances upto 75% to 95% for the period 7-9-1988 to 23-10-1992 and pass an appropriate order under FR 54-B. Considering the representation made by the Applicant to the competent authority vide its order dated 23-10-1992 passed the aforesaid order. Keeping in view the orders passed by the Respondents, the Tribunal thought it fit that it is appropriate to pass suitable orders in accordance with FR 54-B and nothing more. In this O.A., the Respondents contended by saying that pursuant to the directions of the Tribunal in its earlier orders, the proceedings are being continued against the Applicant and are in the stage of final order; that does not prevent the Respondents to fix his pay under FR 54-B. The Department is well aware of the fact it is well settled that Review Applications are not by way of an appeal and have to be strictly confined to the scope and ambit of Order 47<sup>1</sup> of C.P.C. The power of review can be exercised on the discovery of a new and important matter or evidence which after exercise of due diligence was not within the knowledge of the person seeking a review or could not be produced by him at the

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time when the order was made. The power of review is not to be confused with the appellate power which may enable an Appellate court to correct all manners of errors committed by the lower court.

3. On receipt of the earlier notice, it is incumbent upon the Respondents to make their appearance and file a reply if they so desire; however, they failed to take necessary action either to file any reply or to make their appearance. For their inaction, the Respondents cannot blame the Tribunal.

4. Keeping in view, the aforesaid guidelines, we are of the firm view, that no such error has crept into the order and we find that R.P. filed by the Respondents is without any substance and is devoid of merits and the same is liable to be dismissed. Accordingly, we dismiss the Review Petition.

M.R.Kolhatkar

(M.R. Kolhatkar)  
Member (A)

B.S. Hegde

(B.S. Hegde)  
Member (J)

ssp.