

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
JAIPUR BENCH

Jaipur, this the <sup>th</sup> 19 day of May, 2008

REVIEW APPLICATION NO. 14/2008  
IN  
ORIGINATION APPLICATION NO. 433/2007

1. Indian Forest Services Officers Association, Rajasthan Chapter Jaipur through its Treasurer Shri Y.C. Sharma son of Shri H.C. Sharma, aged about 56 years, resident of Lal Kothi Scheme, Behind Vidhan Sabha, Jaipur and presently working as Deputy Conservator of Forest, State of Rajasthan, Jaipur.
2. Y.C. Sharma son of Shri H.C. Sharma aged about 56 years, resident of Lal Kothi Scheme, Behind Vidhan Sabha, Jaipur and presently working as Deputy Conservator of Forest, State of Rajasthan, Jaipur.
3. S. Hussain son of Shri Ashfaq Hussain, aged about 54 years, resident of Nemi Nagar (Vaishali Nagar), Jaipur and presently working as Conservator of Forest I & L, Jaipur.

.....APPLICANTS

VERSUS

1. Union of India through its Secretary, Ministry of Finance, Department of Expenditure, New Delhi.
2. State of Rajasthan through its Secretary, Government of Rajasthan, Department of Personnel, Rajasthan Secretariat, Jaipur.
3. The Accountant General (Accounts & Entitlement), Bhagwan Das Road, Jaipur.
4. State of Rajasthan through its Principal Secretary, Government of Rajasthan, Department of Forest, Rajasthan Secretariat, Jaipur.
5. Principal Chief Conservator of Forest, Government of Rajasthan, Van Bhawan, Behind Secretariat, Jaipur.

.....RESPONDENTS

**ORDER****PER HON'BLE MR. M.L. CHAUHAN, JUDICIAL MEMBER**

This Review Application has been filed by Respondents nos. 2, 4 and 5 in the aforesaid OA for reviewing the order dated 14.03.2008. When the matter was listed on 14.03.2008, this Tribunal disposed of the OA on the basis of reply filed by Respondent No. 1 i.e. Union of India and after taking into consideration the judgement of this Tribunal in OA No. 484/2003, Senior Accounts Officers/Accounts Officers Association & Another vs. Union of India & Others, decided on 21.12.2004 wherein the controversy involved in the matter was the same as in the present OA i.e. recovery of pay & allowance on account of payment of enhanced Transportation Allowance treating the Jaipur as 'A' Class city. This Tribunal relying upon the aforesaid judgement disposed of the OA to the extent that respondents may not recover the excess payment of Transport Allowance from the applicants and in case any amount has been recovered from them, the same shall be refunded to them within a period of three months from the date of receipt of a copy of this order.

2. The present Review Application has been filed by respondent nos. 2, 4 and 5 i.e. State of Rajasthan on the ground that it could not file reply to the OA and also that in OA No. 315/2006 decided on 05.10.2006, this Tribunal has upheld the validity of recovery of an amount of Rs.11,700/- of the applicant therein who was an IAs officer and the judgement rendered by this Tribunal in OA No. 484/2003, Senior Accounts Officers/Accounts Officers Association &

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Another vs. Union of India & Others, decided on 21.12.2004 is not applicable in the facts & circumstances of the case where the applicants belong to IFS Services.

3. We have given due consideration to the submissions made by the Review applicants. We are of the view that this Review Application is wholly misconceived. The judgement relied upon by the Review applicants in the case of Mahaveer Singh, relevant portion of which has been reproduced in Para No. 5 of the Review Application is not applicable in the facts & circumstances of this case. As can be seen from the extracted portion of the judgement, the recovery of amount of Rs.11,700/- was upheld on ground that the applicant has not challenged the basic decision, Annexure A-3, which is adverse to his interest and also that the applicant has not disclosed any prejudice having been caused to him due to non following of principles of natural justice. As already stated above, this was not a case set upon by the original applicants in the OA. The dispute in the OA was regarding the recovery made by the respondents regarding enhanced Transportation Allowance, which allowance was granted by the respondents while interpreting OM dated 03.10.1997. This Tribunal in the OA No. 484/2003 held that saving clause of OM dated 03.10.1997 (Annexure A/7) would not be applicable for grant of Transport Allowance to the applicants and as such they are entitled for Transport Allowance treating the Jaipur City as B-1 City. Jaipur was treated as 'A' Class city only for the purpose of grant of CCA and HRA and not for Transport allowance. Thus, it was on this basis that

this Tribunal held that the recovery from pay & allowances from the employees who have been wrongly paid Transport Allowance at enhanced rate, treating the Jaipur City as 'A' Class by the Administration when there is no fault of such employees in payment of the Transport Allowance at the enhanced rate, and such recovery is going to hurt the employees, it cannot be allowed to be done by the Court of Law. It was further observed that the respondents have not taken the plea that the applicants had committed any fraud on account of which they were paid the enhanced rate of transport allowance treating Jaipur as 'A' Class city. It was the interpretation of the OM dated 03.10.1997 which resulted in the overpayment to the applicants. The issue involved in this case is squarely covered by the judgement rendered by this Tribunal in OA No. 484/2003, which has been relied upon in the aforesaid OA, against which the Review application has been filed. Thus reliance placed by the respondents to decision in OA No. 315/2006 in the case of Mahaveer Singh (supra) is wholly misconceived and untenable. Further the respondents nos. 2, 4 and 5 in the Original application were given repeated opportunities to file reply, which they failed to file. Even on 14.03.2008 when the matter was heard, no further request was made by the learned counsel for the respondents nos. 2, 4 and 5 to adjourn the matter for the purpose of filing reply. The matter was heard and accordingly the judgement was rendered. We are of the view that the Review applicants have not made out any case for reviewing the judgement. Allowing the review on technical ground that State of Rajasthan has not filed any reply would amount to abuse the liberty given to the Tribunal to review its judgement. In case Review applicants are

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aggrieved by the judgement rendered by this Tribunal, it is open for them to challenge the decision by filing Writ Petition before the Hon'ble High Court where the question regarding waiving of the recovery can be gone into without there being any need to file reply. Thus in the facts & circumstances of this case, we are of the view that the present Review Application is wholly misconceived and deserves to be dismissed.

4. Accordingly, the Review Application is dismissed by Circulation with no order as to costs.



(J.P. SHUKLA)  
MEMBER (A)



(M.L. CHAUHAN)  
MEMBER (J)

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