

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH, JAIPUR.

R.A.No.31/2002

Date of order: 27.9.2002

K.R.Guglani, 1/255, SFS, Mansarovar, Jaipur.

...Applicant.

Vs.

1. Union of India through Secretary, Mini.of Finance, Deptt. of Revenue, New Delhi.
2. Chief Commissioner of Income Tax, Jaipur.
3. Commissioner of Income Tax, Udaipur.
4. Commissioner of Income Tax, Jodhpur.

...Respondents.

Applicant in person.

PER HON'BLE MR.M.L.CHAUHAN, MEMBER (JUDICIAL)

Applicant in O.A No.167/2000 has filed this Review Application to review the order dated 17.9.02 passed by this Tribunal in O.A No.167/2000 on the ground that one of the prayer, i.e. "the respondent No.3 may be directed to make payments of the claims made in para 1 to 8 of the representation dated 1.9.2000 allowed to be impleaded", made in the amended O.A has not been considered by this Tribunal while passing the impugned order. The basis for this prayer as mentioned in the Review Application is that while disposing of O.A No.167/2000 vide order dated 17.9.2000, this Tribunal has not decided the claim of the applicant for pay and allowances for the suspension period which terms includes subsistence allowance and such averments have been mentioned in paras 4 & 5 of the representation dated 1.9.2000. It is further averred that although the High Court had denied the back wages and not the allowances and as such the term 'allowance' includes subsistence allowance to which the applicant was entitled.

2. The contentions raised by the applicant is totally

misconceived and does not constitute a ground for reviewing the order dated 17.9.02 as is clear from the reasons given hereinafter. While disposing of the matter, this Tribunal in paras 6, 7 and 10 has held as under:

"6. We agree with the submissions made by the counsel for the respondents that nothing remains to be decided by this Tribunal after passing of the orders dated 19.9.01 and 4.2.02 passed by the Rajasthan High Court in CWP No.80/01 and CMP No.10/02. While disposing of CWP No.80/01, the Rajasthan High Court in the concluding para has held as under:

'During the present enquiry, the respondent will not be entitled to payment of any back wages etc., except provisional pension.'

7. Thus, from the operative portion of the order passed by the Rajasthan High Court in CWP No.80/01, it is quite clear that the applicant was not held entitled for payment of any back wages etc, except provisional pension. Thus the relief for back wages as claimed by the applicant in this application cannot be granted to him.


10. Even otherwise also, we are of the view that in view of the orders of the Hon'ble Rajasthan High Court dated 12.9.01 and 4.2.02, no relief can be granted to the applicant. It is not open for us to give interpretation/clarification to the orders passed by the Rajasthan High Court in CWP No.80/01 and CMP No.10/02."

4. This Tribunal has also observed in para 8 of the order dated 17.9.02 that the applicant has moved CMP No.10/02 before the Rajasthan High Court for clarification of the judgment dated 12.9.01 whereby he has prayed for direction to the respondents authorities to make payment of provisional pension

from 1.11.97 instead of 12.9.01. This application was disposed of by the High Court vide its order dated 4.2.02 whereby it has been ordered that 'the order dated 12.9.01 is very much clear and does not require any clarification, whatsoever. If the respondent had any grievance against that order, it was open for him to challenge the same. The application seeking clarification is hereby rejected.'

4. Thus from the portions as quoted above, it is quite evident that the relief in O.A No.167/2000 was declined to the applicant in view of the judgment/order passed by the Rajasthan High Court in CWP No.80/01 and CMP No.10/02. Thus the relief of subsistence allowance also stands deemed to have been rejected as the High Court has specifically held that during the present enquiry, the respondent (applicant herein) will not be entitled to payment of any back wages etc. except provisional pension. Further, in para 10 of the order, this Tribunal has specifically observed that it is not open for us to give interpretation/clarification to the order passed by the Rajasthan High Court in CWP No.80/01 and CMP No.10/02. On the face of such clear findings, the grievance if any regarding admissibility of subsistence allowance during the pendency of the enquiry proceedings, lies elsewhere and not before this Tribunal and the Review Application is not a proper remedy.

5. The applicant has thus failed to make any ground for reviewing the order dated 17.9.02 in O.A No.167/2000 and as such the Review Application is considered by circulation and dismissed.


(M.L. Chauhan)

Member (J).


(H.O. Gupta)

Member (A).