

FORM NO. 4

(See Rule 42)

In The Central Administrative Tribunal

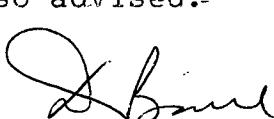
GUWAHATI BENCH : GUWAHATI

ORDER SHEETReview APPLICATION NO. 2/99
O.A. 278/98

OF 199

Applicant(s) *Union of India and ors.*Respondent(s) *Sri D. L. Vaid.*Advocate for Applicant(s) *Mr. B.C. Pathak, A.O.L.C.G. S.C.*Advocate for Respondent(s) *Mr. M. Chanda, Advocate.*

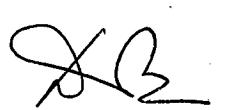
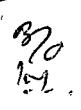
Notes of the Registry	Date	Order of the Tribunal
<i>This Review application was filed by Mr. B.C. Pathak, A.O.L.C.G. S.C. on behalf of respondents No.1,2 with a prayer for review the judgment and order dt. 8.1.98 passed by this Hon'ble Tribunal.</i>	17.2.99	<p>Present: Hon'ble Mr Justice D.N. Baruah, Vice-Chairman</p> <p>This application has been filed against the order of this Tribunal dated 8.1.1999 passed in original application No.278 of 1998. Let this case be listed on 26.2.99. Mr M. Chanda, learned counsel for the opposite party/applicant prays for sometime to file objection. He may file objection by 23.2.99, if so advised.</p>
<i>Laid for favour if order.</i> <i>Section 27(2) of the RTI Act</i> <i>Section 27(2) of the RTI Act</i> <i>26.2.99</i>	nkm 17/2/99	<p>Mr D. Roy Choudhury, learned counsel appearing on behalf of respondent No.2 prays for time to file rejoinder against the objection filed by</p>


 Vice-Chairman

Notes of the Registry	Date	Order of the Tribunal
<u>17-2-99</u>	26.2.99	the opposite party. Prayer allowed. Time is allowed till 12.3.99 for filing rejoinder. Fix it on 19.3.99.
<u>24.2.99</u> Mr. M. Chanda, applicant Advocate has been filed an affidavit at page no. 18-24.	nkm	 Vice-Chairman
<u>25-2-99</u> An affidavit has been filed.	19.3.99	The case is otherwise ready for hearing.  List it for hearing on 4.6.99.
<u>25/2/99</u>	trd.	 Vice-Chairman
<u>10.3.99</u> Rejoinder has been filed by the applicant No. 1, 2. without served a copy of Rejoinder to the respondents.	4.6.99	On the prayer of Mr B.C. Pathak, learned Addl. C.G.S.C. and Mr M. Chanda, learned counsel for the opposite party the case is adjourned till 30.7.99 for hearing. Mr. D. Roy Choudhury, learned counsel engaged by the Union of India does not have any objection. The interim order shall continue until further orders. All records shall be produced on the next date.
<u>10/3/99</u> The case is ready for hearing as regard service.	nkm	 Vice-Chairman
<u>29-7-99</u> Copy of the order of 4.6.99 issued to the respondent and counsel of the applicants.	30.7.99	Mr D. Roy Choudhury, learned counsel for the petitioners is present. Mr M. Chanda, learned counsel for the opposite party prays for adjournment. Prayer allowed. List on 17.9.99 for hearing.
<u>29-7-99</u> The case is ready for hearing.	pg	 Member

(3)

R.A. 2/99 (OA 278198)

Notes of the Registry	Date	Order of the Tribunal
<u>16-9-99</u> The case is ready for hearing.	17.9.99	<p>This has been listed for order by mistake instead of hearing.</p> <p>Learned counsel Mr. J.L.Sarkar, learned Addl. C.G.S.C. Mr. Pathak have expressed their inability to argue the case today as they are not prepared for hearing today. However Mr. D.Roy Choudhury, learned counsel for the petitioner prays for early disposal. Let this case be listed for hearing on 19.11.99.</p> <p> Vice-Chairman</p>
<u>18-11-99</u> The case is ready for hearing.	trd	
<u>16-12-99</u> The case is ready for hearing.	19.11.99 17.12.99	<p>40. Adjourned to 17.12.99.</p> <p> On the prayer of Mr. B.C.Pathak, learned Addl. C.G.S.C. the case is adjourned till 7.1.2000.</p> <p> Vice-Chairman</p>
<u>10-2-00</u> The case is ready for hearing.	7.1.2000 trd	<p>On the prayer of Mr B.C. Pathak, learned counsel for the applicant the case is adjourned till 11.2.2000 for hearing.</p> <p> Vice-Chairman</p>
<u>30-3-00</u> The case is ready for hearing.	18.2.00 nkm	<p>40. Adjourned to 18.2.00.</p> <p> On the prayer of Mr. B.C. Pathak, learned counsel for the applicant the case is adjourned till 31.3.00.</p> <p> Vice-Chairman</p>


30/3

Notes of the Registry

Date

Order of the Tribunal

31.3.00

On the prayer of Mr B.C. Pathak, learned Addl. C.G.S.C., hearing is adjourned to 26.4.00.

nkm

26.4.00

A agreed by the learned counsel for the parties, the case is adjourned to 15.5.00 for hearing.

nkm

15.5.00

Mr J.L. Sarkar, learned counsel for the applicant is present. Mr B.C. Pathak, learned Addl. C.G.S.C. is not present. Let the case be listed on 5.6.00 for orders.

nkm

5.6.00

The learned counsel for the respondents submits that the records have not come today and seeks one week time to produce the same.

List on 12.6.00 to produce the records and for hearing.

Member(J)

*The case is ready
for hearing.*

*My
12.7.2000*

mk

12.6.00

Present: Hon'ble Mr D.C. Verma, Judicial Member

Learned counsel Mr J.L. Sarkar for the applicant and Mr B.C. Pathak, learned Addl. C.G.S.C. for the respondents. The records have been brought today. As this is a Review Application this has to be placed, as per rules, before the Hon'ble Vice-Chairman for constitution of the Bench. As the post of Vice-Chairman is still vacant and none has joined let it come up on 13.7.00.

Member (J)

nkm

Member(J)

Notes of the Registry	Date	Order of the Tribunal
<p><u>25.9.2000</u></p> <p>copy of the order has been sent to the Office for issuing the same to the L/Advocates for the parties.</p> <p>att</p>	21.9.00	<p>far as the transfer and posting of the Respondent/Applicant is concerned.</p> <p>In view of the above, the Original Application No. 278/98 is restored to file and the same shall be taken up for hearing on 27.9.2000. The Review Applicant/Respondents may file its written statement and place on record any other material in support of its case.</p> <p>The judgement and order dated 8.1.99 is thus set aside and the O.A. shall now be heard on merit. The Review Application is allowed accordingly.</p> <p style="text-align: right;">_____ Vice-Chairman</p>

Notes of the Registry	Date	Order of the Tribunal
	21.9.00	<p>Section 22 (3) (f) of the Administrative Tribunals Act, 1985 has provided the Tribunal with the power of reviewing its decisions. The power is akin to the power granted to a Civil courts under Section 114 read with order 47 of the Civil Procedure Code. The power of Review is not total and unqualified. The power is conditioned by the constraints mentioned in order 47 of the Code. It can be exercised on the application of the person on the discovery of new and important matter or evidence, which after the exercise of due diligence was not within his knowledge or could not be produced at the time when the order was made or on account of some mistake or error apparent on the face of the record or for any other significant reason. A review cannot be called for or pleaded for a renewed hearing or rectification of an erroneous view taken earlier. The power of review is meant to be exercised to set at right an obvious or manifest error of fact or law evidence on the face of the record without any elaborate argument to establish the same.</p> <p>The issue relates to the dispensation of justice. Under our system of Jurisprudence the parties are required to be afforded a reasonable opportunity to place their respective cases as far as practicable, one should be given the scope of nursing a grievance of rationing of fairness in action. The Review Applicant in course of hearing of the application produced some files to justify its stand - the ends of justice demand that the Applicant be given an opportunity to place materials those were available with them when the case was finally disposed of by this Tribunal on 8.1.99.</p> <p>On consideration all these aspects I am of the opinion that the O.A. is required to be heard afresh by giving fresh opportunity to the Review Applicant/Respondents to place the relevant material on records. In the meantime status quo shall be maintained as on today so</p> <p style="text-align: right;">Contd..</p>

Notes of the Registry	Date	Order of the Tribunal
-----------------------	------	-----------------------

21.9.00 dated 8.1.99 does not arise. Mr. Chanda further submits that there is neither any error apparent on the face of the record nor there is any materials to show and after exercise of due diligence the Review Applicant/Respondents failed to produce the materials on records at the time of hearing of the O.A. on 8.1.99. A review cannot be claimed for a fresh hearing or for rectifying an incorrect view, submitted by Mr Chanda.

To examine the matter, O.A. No. 278/98 case records and the same was perused. From the order dated 4.12.1998 it appears that the O.A. was admitted on 4.12.1998 and the Addl. C.G.S.C. Mr. G. Sarma received the notice on behalf of the respondents. No formal notice was sent. The Tribunal also called for the records. On 8.1.99 the Tribunal finally disposed of the application on the consent of the counsel for the parties. Apparently the Tribunal acted within its jurisdiction in disposing of the application on 8.1.99, more so when there was no serious objection from the learned Addl. C.G.S.C. on that day.

One however, cannot leave out of consideration the facts about the changing of hands in the office of the Central Government Standing Counsel; Mr. G.Sarma who received the notices was no longer C.G.S.C. on 8.1.99 and a new set of lawers were appointed by the Central Government. On 8.1.99 Mr. Pathak was a new-comer who appeared as Addl. C.G.S.C. In para 6 of the Review Application it is mentioned that the Review Applicant/Respondents could not prepare the written statement and accordingly decided to seek for adjournment for four weeks and for that purpose the Review Applicant referred to other Fax message dated 7.1.99 addressed to Enforcement Officer, Enforcement Directorate (FERA), Guwahati requesting the said officer to seek adjournment of the case on 8.1.99 at least for a period of 4 weeks for filing of counter.

Notes of the Registry	Date	Order of the Tribunal
	13.7.00	<p>Present: Hon'ble Mr S. Biswas, Administrative Member</p> <p>Mr B.C. Pathak, learned Addl. C.G.S.C. and learned counsel Mr M. Chanda for the opposite party/applicant.</p> <p>The O.A. was decided by the then Hon'ble Vice-Chairman. Therefore, this Review Application should be put up before the Hon'ble Vice-Chairman when he joins. Post on 23.8.00.</p> <p style="text-align: right;">S. Biswas Member(A)</p>
	nkm	
The case is ready for hearing.	23.8.00	<p>Then 5 mo. Bem. 278/98</p> <p>at 6.9.00</p> <p style="text-align: right;">870</p>
	6.9.00	<p>no Bempr. To be listed on</p> <p>21.9.00</p> <p style="text-align: right;">870</p>
	21.9.00	<p>Present : Hon'ble Mr. Justice D.N.Choudhury, Vice-Chairman.</p> <p>Perused the application for review of the order passed by this Bench of the Tribunal on 8.1.99 in O.A. No. 278/98. Also heard Mr. B.C. Pathak, learned Addl. C.G.S.C. appearing on behalf of the Review Applicant/Respondents and Mr. M. Chanda, learned counsel for the Respondent/Applicant.</p> <p>Mr. Pathak in course of his submissions referred to the documents annexed to the Review Application. Mr. Chanda submits that opportunity was given to the Review Applicant/Respondents to submit written statement fixing the O.A. on 8.1.99 as the date of hearing. Since the Review Applicant/Respondents represented by the counsel in both the days and on their presence the application was disposed of on merit, therefore question of Reviewing the order</p> <p style="text-align: right;">L</p>

Contd..