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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

M.A. No.1858/2004 and MA 1859/2004

IN

O.A. No.439/2003

New Delhi, this the 17th day of September, 2004

HON'BLE SHRI V.K. MAJOTRA, VICE CHAIRMAN (A)
HON'BLE SHRI SHANKER RAJU, MEMBER (J)

Federation of All India ICMR Employees & Ors.Applicants.
(By Advocate : Shri R.N. Singh)

Versus

Indian Council of Medical Research & Ors.Respondents
(By Advocate : Shri V.K. Rao)

ORDER

HON'BLE SHRI SHANKER RAJU, MEMBER (J) :-

By a common order dated 10.3.2004 OAs 439/2003 and 1564/2003

have been referred to the Larger Bench with the following references:-

- "1. Whether in the event of civil consequences ensued to a Govt. servant in the matter of his pay and allowances and also retrospective alteration in the conditions of service a post-decisional hearing would be valid compliance of the principles of natural justice.
2. Whether approval of the Govt. to the recommendations made by the Governing Body/Executive Committee of ICMR regarding pay scales to the employees is mandatory when a representative of the integrated finance is a Member in the Committee and also Rule 15 of the Rules and Regulations of ICMR read with clause 6 of bye-lay prescribed such grant of pay scale, as well as Ministry of Finance OM dated 15.10.1984

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and clarification in OM dated 16.3.1986 and also the decision of the High Court of Delhi in CWP No.122/2002 supports such grant?"

2. The Full Bench was constituted and by an order dated 15.7.2004 references have been answered.

3. Applicants in OAs through Shri R.N. Singh, learned counsel seek correction of the typographical error in paragraph 52 of the reference by stating that whereas in para 29 of the Division Bench order referring the matter to the Larger Bench has quoted the decision of the High Court in CWP No.3610/2002 whereas the same has been wrongly mentioned due to typographical error as CWP No.122/2002 in point no.2 of references. Accordingly, the rectification of the typographical mistake has been sought through this MA.

4. The aforesaid MA is vehemently opposed by the respondents on the ground that the reference has attained finality and answered by the Full Bench, the Division Bench has no jurisdiction to review its earlier order or even rectify the typographical mistake. According to the counsel, it is an attempt in guise to reopen the matter laid at finality by the Full Bench.

5. We have carefully considered the rival contentions of the parties and perused the material available on record.

6. It is trite law that when the error, which is apparent on the face of record, this Tribunal is duty bound graciously to rectify the same as held Apex Court's decision in *Surjit Singh and others Vs. Union of India and others*,

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1997 (10) SCC 592. However, as held by the Apex Court in the case of *The Sree Narayana Dharma Sangam Trust Vs. Swami Prakasananda and others*, JT 1997 (5) SC 100 that once an order passed by a lower Court and the issue is finally concluded by the higher Court which merges with the decision of the higher Court, powers of review cannot be exercised by the lower Court which would be without jurisdiction.

7. In the reference point No.2, CWP No.122/2002 has been referred whereas there has no reference in body of the reference order. However, as the reference stood answered by an order dated 15.7.2004, the order of reference passed by the Division Bench merges into the order of the Full Bench. Accordingly, as a Division Bench it does not lie within the jurisdiction to rectify any error which may have been a typographical one.

8. In the result, as we have no jurisdiction to rectify any error in our common reference order dated 10.3.2004 in OA No.439/2003 and OA No.1564/2003, MAs is dismissed. No costs.

S. Raju

(SHANKER RAJU)
MEMBER (J)

V.K. Majotra

(V.K. MAJOTRA)
VICE CHAIRMAN (A)

17.9.04

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