

(2024) 02 CAT CK 0020

Central Administrative Tribunal - Allahabad Bench, Allahabad

Case No: Review Application No. 19 Of 2021 In Original Petition No. 1534 Of 2010

Union Of India Through The
Secretary, Ministry Of Defence,
Department Of Defence
Production & Supply, New Delhi
◆ 11 & Others

APPELLANT

Vs

Ram Shankar Vishwakarma

RESPONDENT

Date of Decision: Feb. 12, 2024

Acts Referred:

- Central Administrative Tribunal (Procedure) Rules, 1987 - Rule 17, 24

Hon'ble Judges: B.K. Shrivastava, Member J; Dr. Sanjiv Kumar, Member (A)

Bench: Division Bench

Advocate: L.M. Singh, V.N. Pandey

Judgement

Dr. Sanjiv Kumar, Member (A)

1. The present Review Petition No. 19/2021 has been filed under Rule 17 read with Rule 24 of CAT (Procedure) Rules, 1987. By means of the

Review Petition the impugned order challenged is dated 02.08.2021 in the third judge reference under 26 of Administrative Tribunals Act, 1985 in OA

No. 1534/2010 and OA No. 1934/2010. As while deciding the aforesaid two connected OAs a difference of opinion arose between the two Members

sitting earlier in Division Bench of this Tribunal Honâ€™ble Mr. Rakesh Sagar Jain, JM allowed both the OA, whereas Honâ€™ble Ms. Ajanta

Dalayan, AM dismissed both the OA. Both Honâ€™ble Members have given their independent reasoning for taking the different views. After hearing

the third judge Honâ€™ble Ms. Justice Vijay Lakshmi, JM vide the impugned order passed following orders:-

â€œ30. Accordingly, both the Original Applications stand allowed the impugned orders dated 27.7.20010 and 3.8.2010 (in OA No.

1534/2010) and 29.11.2010 (in OA No. 1934/2010) are set aside. It is directed that the applicants shall retain the benefits of second ACP

granted to them. The recoveries, if any, made already by the respondent department shall be refunded to them within a period of three

months from the date of receipt of a certified copy of the order.â€

2. As the third judge reference was in continuation of the order of the earlier order of two Members sitting in Division Bench and merged with the

said order. The preliminary question to be decided before us is, â€œWhether the third Judge reference can be reviewed in isolation, and disconnected

with the earlier Division Bench order in which it merged and transformed into a three Judges Bench order, and so consequently which Bench would

be competent to hear a Review Petition of such order?

3. The case came for last hearing on the preliminary issue on 07.02.2024. Shri L.M. Singh, learned counsel for the applicants (Respondents in OA)

and Shri V.N. Pandey, learned counsel for the respondents (Applicants in OA) were present and heard. We have gone through the records carefully

and considered the rival contentions.

4. We are of the unanimous opinion that the third Judge reference order dated 02.08.2021 in OA No. 1534/2010 and OA No. 1934/2010 passed by

Honâ€™ble Ms. Justice Vijay Lakshmi, JM merges with the earlier order of the Division Bench vide their order and consisting of Honâ€™ble Mr.

Rakesh Sagar Jain, JM who allowed both the OAs whereas Honâ€™ble Ms. Ajanta Dalayan, AM dismissed both the OAs and consequently by 2:1

majority both the OAs stood allowed and impugned orders were set aside. It is pertinent to note that the orders of both the Members of earlier

Division Bench was before the third Judge reference Bench. Hence, clearly the third Judge reference order merged with the earlier Division Bench

order, and with the merger with the orders of the Division Bench and third Judge reference it becomes one order of the Bench of three Judges.

5. Further, we have no doubt in our mind that the old and new judgment is an organically linked one judgment of the three Judge Bench, and there is no separate existence of the third Judge reference order dated 02.08.2021, hence, its Review cannot be separated from the previous orders of the Division Bench pursuant to which the reference to third Judge was made. Considering the same we have no doubt that as it is a three Judges Bench order which is under review, it cannot be heard by a two Judges Bench.

6. The same matter was examined by the Bench consisting of Honâ€™ble Mr. Justice Om Prakash VII, JM and Honâ€™ble Mr. Mohan Pyare, AM and in the order sheet dated 30.10.2023 it was clearly mentioned, â€œReview Petition is posted for 02.11.2023. Since OA was decided on difference of opinion by three Members, thus, Review Petition could only be decided by a Bench consisting of three Members. And in this circumstances, a request be made to the Honâ€™ble Chairman, Principal Bench, New Delhi to constitute a Bench comprising of Honâ€™ble Chairmanâ€.

7. From the record it is evident that a reference was made by the Registrar of CAT, Allahabad to the Deputy Registrar (JA) CAT, Principal Bench vide letter dated 01.11.2023, but probably it was not emphatically said that it was a judicial pronouncement on the issue and we concur with the same that it should be heard by a three Member Bench and so we pass following order:-
â€œWe direct the Deputy Registrar to request Honâ€™ble Chairman, CAT, New Delhi to constitute a Bench comprising three Members to hear this Review Petition No. 19 of 2021 against the three Member Bench order in OA No. 1534/2010 and OA No. 1934/2010â€.