

**(2011) 05 AHC CK 0364**

**Allahabad High Court**

**Case No:** Civil Miscellaneous Review Application No. 89125 of 2011 and Writ C No. 11072 of 2011

M/s Ajaz Carpets

APPELLANT

Vs

Presiding Officer, Employess"

Provident Fund Appellate

Tribunal and another

RESPONDENT

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**Date of Decision:** May 18, 2011

**Citation:** (2011) 131 FLR 146 : (2011) 131 FLR 145

**Hon'ble Judges:** Sudhir Agarwal, J

**Bench:** Single Bench

**Final Decision:** Dismissed

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### **Judgement**

Sudhir Agarwal, J.

Civil Misc. Review Application No. 89125 of 2011

1. This is an application for review of my judgment dated 23.2.2011, whereby the writ petition was dismissed. Learned Counsel for the applicant contended that the impugned order of the Tribunal relied on a report of the Inspector which the petitioner did not possess earlier. He had applied for a copy of report under Right to Information Act through application dated 3.2.2011 before filing of the writ petition but no reply could be received by him till the matter was considered by this Court and the writ petition was dismissed on 23.2.2011.

2. Later on 3.3.2011 the Regional Provident Fund Commissioner, Varanasi informed the petitioner that no such report is available on record and for the said purpose accompanied with his letter another letter dated 24.2.2011 of Assistant Commissioner to the same effect. He, therefore, submitted that the impugned order of the Tribunal based on non est report and, this fact, the petitioner was not in a position to inform the Court on 23.2.2011 though he was already in search of information which could be received subsequently. Therefore, it is a discovery of

material information which goes to the root of the matter and was not earlier in possession of the applicant, hence the judgment dated 23.2.2011 should be recalled otherwise the applicant shall suffer irreparably.

3. Sri Dhananjai Awasthi, learned Counsel for the respondents was directed to find out as to whether any such report existed and, if so, to produce the same before this Court.

4. Today, he has stated that no such report existed and is available on record. In my view a clear case for review has been made out by the applicant. The judgment dated 23.2.2011 is hereby recalled. The writ petition is restored to its original number.