

[2022 LiveLaw \(SC\) 364](#)

IN THE SUPREME COURT OF INDIA

M.R. SHAH; B.V. NAGARATHNA, JJ.

Special Leave to Appeal (C) No(s). 5192-5194/2022; 01-04-2022

DALJIT SINGH & ORS. *VERSUS* ARVIND SAMYAL & ORS.

Administrative Tribunal Act, 1986; Section 26 - Once there is a difference of opinion between the Judicial Member and the Administrative Member of the Tribunal, the matter is required to be referred to the third Member/Chairman and the third Member/Chairman was required to give his own decision upon such a reference. However, the matter is not required to be referred to the Full Bench.

Summary - Appeal against Jammu and Kashmir High Court judgment setting aside the Full bench judgment of Central Administrative Tribunal - Dismissed - We are in complete agreement with the view taken by the High Court on the procedure which was adopted by the Chairman of the Central Administrative Tribunal.

(Arising out of impugned final judgment and order dated 07-03-2022 in WP(C) No. 849/2021 07-03-2022 in WP(C) No. 972/2021 07-03-2022 in WP(C) No. 1365/2021 passed by the High Court Of Jammu & Kashmir And Ladakh At Jammu)

For Petitioner(s) Mr. P.S. Patwalia, Sr. Adv. Mr. Tushar Bakshi, AOR Mr. Gauravjit Singh Patwalia, Adv. Ms. Harshika Verma, Adv.

For Respondent(s) Mr. Gaurav Pachnanda, Sr. Adv. Mr. Sahil Tagotra, AOR Mr. Sidharth Jain, Adv. Ms. Nikita Jaitly, Adv.

ORDER

We are in complete agreement with the view taken by the High Court on the procedure which was adopted by the Chairman of the Central Administrative Tribunal. As rightly observed, once there was a difference of opinion between the Judicial Member and the Administrative Member of the Tribunal, the matter was required to be referred to the third Member/Chairman and the third Member/Chairman was required to give his own decision upon such a reference. However, the matter was not required to be referred to the Full Bench. We are in complete agreement with the view taken by the High Court. The High Court has rightly remanded the matter to the Tribunal and issued the directions, in para 18, which reads as under:

“18. Be that as it may, the judgment and order dated 31.03.2021 is set aside. The matter is remanded to the Central Administrative Tribunal, Jammu Bench. The points of difference expressed by the learned Judicial Member and the learned Administrative Member in its judgment and order shall be crystallized and a reference shall be made to the learned Chairman on such points of difference within ten days’ from today. Upon such a reference being made on the points of difference, the learned Chairman, Tribunal shall proceed to decide the point or points of reference so referred in accordance with the provisions of Section 26 of the Act.”

The Special Leave Petitions stand dismissed.

However, in the facts and circumstances of the case and considering the fact that the dispute is with respect to the promotion and it is pending since long, we direct the Central Administrative Tribunal, Jammu Bench to finally decide and dispose of the matter, on remand, and, as directed by the High Court, as per para 18 of the impugned judgment, reproduced herein above, within a period of six months from the date of receipt of the present order.

All concerned are directed to cooperate with the Central Administrative Tribunal, Jammu Bench to finally decide and dispose of the matter, on remand, within the time stipulated hereinabove.

Pending application stands disposed of.

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