

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

M.A.No.1047/05
M.A.No.1048/05 in
O.A.No.2025/02
With
M.A.No.1055/05
M.A.No.1056/05 in
O.A.No.2026/02

Hon'ble Shri Justice B. Panigrahi, Chairman
Hon'ble Shri V.K.Majotra, Vice-Chairman (A)

New Delhi, this the 2nd day of October, 2005

Advocates: For applicants Ms. Babita Puniya, proxy for Sh. Neeraj Sharma with Applicant No.1 in person in both the MAs.

For respondents Sh. T.D.Yadav, proxy for Shri Vijay Pandita.

ORDER on MAs

By Justice B. Panigrahi, Chairman


The above mentioned Miscellaneous Applications arise from OAs 2025/2002 and 2026/2002 for recalling of the order passed by this Tribunal dated 15.1.2003 whereby and whereunder the applications were dismissed as withdrawn with liberty to make representation to waive out the extra amount paid to the applicants and the said prayer shall be dealt with in accordance with law. The said applications for recalling of the order have been presented after an expiry of the period of limitation. It is stated by the applicants that earlier, they had engaged one Sh. Dhanesh Relan as their Advocate to contest the cases on their behalf. When the case appeared for hearing on 15.1.2003 along with another Original Application No.1598/2002, the learned counsel appearing on



behalf of the applicants had submitted that since the applicants S/Sh. Tilak Raj and Trilok Nath have already retired from service, they will submit a representation to the respondents for waiver of recovery of excess amount already paid to them and further made a statement that the applicants were no longer interested to prosecute the litigation. Accordingly, the same had been dismissed as withdrawn.

2. In the present Miscellaneous Applications, it is, however, stated that their learned Advocate informed the applicants on 17.1.2003 that their prayer for stay was dismissed. It is further stated in the application that when the applicants met their counsel on 04.04.2005 to take stock of the situation of the case and to ascertain the status of the Original Applications, their learned Advocate gave an impression to meet him after a week's time. On 15.4.2005, when the applicants once again met their learned counsel to know the status of the case, they could not get satisfactory reply from their counsel. The Clerk of their Advocate informed them on 5.5.2005 that their cases had been withdrawn on 15.1.2003 and no further case is pending with this Tribunal. Therefore, they have taken a plea that only after 15.1.2003, when the Clerk of the learned Advocate apprised them about the status of the case that their applications have already been withdrawn, they could know that the learned counsel had unauthorisedly withdrawn the cases without their knowledge and consent. Thus, they have filed the present MAs for recalling of the aforesaid order dated 15.1.2003 after condonation of delay.

3. The respondents in their reply have taken a formidable point that these applications have to be dismissed in limine inasmuch as the same have been filed after two and half years after the prescribed period of limitation. The issue, which has been set at rest, should not be permitted to be reopened once again.



The applicants have significantly failed to mention as to what happened from 17.1.2003 to 5.5.2005 and they have not explained the delay for the aforesaid period by assigning reasonable grounds. Therefore, they claim that the applications being barred by time, should be dismissed at the threshold.

4. The respondents in their reply have also enclosed the copy of the Judgment passed by the Hon'ble Supreme Court in the case of HUKAM RAJ KHINVSARA v. UNION OF INDIA & OTHERS, 1997(2) SLR (SC) 599. On a bare perusal of the Judgement of the Supreme Court, it is found that it relates to implementation and execution of the order. This relates to an order passed under Sections 20 and 27 of the Administrative Tribunals Act, 1985. But in the instant case, we find that the applicants have prayed for recalling of the order dated 15.1.2003 by invoking the provisions of the Section 22(3)(f) of the Administrative Tribunals Act, 1985 which is being reproduced hereunder:

“(3) A Tribunal shall have, for the purposes of discharging its functions under this Act, the same powers as are vested in a civil court under the Code of Civil Procedure, 1908 (5 of 1908) while trying a suit, in respect of the following matters, namely:-

- (a)
- (b)
- (c)
- (d)
- (e)
- (f) reviewing its decisions;
- (g)
- (h)
- (i) ”

5. The period of filing such application is 30 days from the date of receipt of a copy of the order as envisaged under Rule 17 of the Central Administrative Tribunal (Procedure) Rules, 1987, which is quoted hereunder:

“17. Application for review:- (1) No application for review shall be entertained unless it is filed within thirty days from the date of receipt of a copy of the order sought to be reviewed.”

6. The legislature in unambiguous terms stipulates that the review application has to be filed within 30 days from the date of receipt of a copy of the order. In this case, the only ground that has been stated is that the applicants were given wrong impression by their Advocate that their cases were pending but finally after ascertaining from the Clerk of their Advocate, they came to know that their applications were withdrawn without their permission.

7. Nothing spelt out in the averments stated in the applications shows as to what prevented the applicants from taking steps to ascertain the status of their cases from 17.1.2003 till 5.5.2005. It is on account of their deliberate negligence and laches that they could not file the applications within the prescribed time limit. If the applicants had chosen to sleep over their rights and remedies for an inordinately long time, the Court/Tribunal may well choose to decline to interfere in its discretionary jurisdiction.

8. Since there has been no satisfactory explanation whatsoever stated by the applicants to recall the order dated 15.1.2003, we are, therefore, not inclined to entertain the said applications.

9. In the affidavit, nothing has been stated that Paragraphs 4 to 8 stated by the applicants are true and correct to the best of their knowledge. Therefore, it cannot be said to be sworn statement of the applicants.

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10. We are conscious of the fact that power of review available to an Administrative Tribunal is not absolute and is hedged in by the restrictions indicated in Order 47 of the CPC. The power can only be exercised if there would be a patent mistake or error apparent on the fact of the record or for any other sufficient reason. A review cannot be sought merely for a fresh hearing or arguments or correction of an erroneous view taken earlier [See: **Ajit Kumar Rath v. State of Orissa**, 1999 (8) SC 578].

11. In the instant cases, we are unable to come across anything to show that the applicants had taken any steps against their Advocate for acting beyond the authorities/powers given by the applicants. Their inaction against the Advocate also suggests falsity of their plea of sufficient cause for delay in filing the application.

12. Taking comprehensive picture of the case, particularly the point of limitation raised by the respondents, we are not inclined to entertain the aforesaid applications and accordingly, the same are dismissed.


(V.K. MAJOTRA)
Vice-Chairman (A)


(B. PANIGRAHI)
Chairman

/Rao/

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH: NEW DELHI

(1) MA. 1056/05
(11) M.A./P.T. 1055/2005

IN

O.A./T.A. 2026/02

In the above mentioned case the applicant(s)/Respondent(s) has/have

Filed the present Misc. application/~~Petition for Transfer~~

Praying for Recalling of order dt. 15/1/05 ^{2 ms for Conduct} _{of duty}

The Misc. application/~~petition for transfer~~ is in order and may be

Listed on 31/5/05 in Court No. 1

SECTION OFFICER(F)

DEPUTY REGISTRAR(J)