

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD
BENCH, ALLAHABAD

(This the 20th Day of December, 2019)

Hon'ble Mr. Justice Bharat Bhushan, Member (Judicial)

Review Application No.330/45/2019
(Filed On behalf of Union of India & Ors.)

In
Original Application No.330/83/2016

Km. Rinki Yadav d/o late Rajendra Prasad r/o Village Bhadi Korwaliya, P.O.
Sahaganj, Tahsil, Shahganj, District – Jaunpur.

..... **Applicant**

By Advocate: None

Versus

1. Union of India through its Secretary, Department of Posts Inida, New Delhi.
2. The Chief Post Master General, U.P., Lucknow.
3. Senior Superintendent of Postal Jaunpur.
4. The Post Master General Allahabad Region, Allahabad.
5. Assistant Superintendent of Post Offices Shahganj, Sub Divisiion Jaunpur.

..... **Respondents**

By Advocate: Shri Krishna Dutt Mishra

ORDER

(Under Rule 17(iii) of Central Administrative Tribunal (Procedure) Rules, 1987)

This Review Application No. 330/00045/2019 has been filed by respondents against the order dated 30.07.2019 passed in Original

Application No. 330/0083/2016 (Km. Rinki Yadav Vs. Union of India and others).

2. This Review Application has been filed with considerable delay. Therefore, Delay Condonation Application No.330/2595/2019 has also been moved.

3. By order under review some directions were given to the respondents. Relevant portion of the order reproduced below:-

"11. Therefore, irrespective of the fact that the application was considered and rejected, it was obligatory upon the respondents to consider the application for two more consecutive years, which however, the respondents failed to do so. In the facts and circumstances of the case, it is clear that the respondents failed to discharge their duty to consider the application for two more consecutive years.

12. In view of the aforesaid discussion, the Original Application is allowed. Respondents directed to consider the case of applicant for compassionate appointment under prevailing rules at lease for two more years. They are also directed to inform the applicant about such consideration. No order as to costs."

4. The matter of condonation of delay of review application came up before the Full Bench of Hon'ble Andhra Pradesh High Court in the case of **G.Narasimha Rao Vs. Regional Joint Director of School Education, Warangal and others -2005(4) SLR 720.** The matter was also examined by the Full Bench with reference to Section 22(3)(f) of the AT Act, 1985 and other relevant provisions of the CAT (Procedure) Rules, provisions of the Limitation Act etc. and it is held that **"a Tribunal**

has no jurisdiction to condone the delay in filing the Review Application.” It was laid down that the Tribunal will not have jurisdiction to condone the delay by taking aid and assistance of either sub section (3) of Section 21 of the Act or Section 29(2) of the Limitation Act. It may be mentioned here that provisions of Rule 19 of A.P. Administrative Tribunal (Procedure) Rules, 1989 which are similar to above Rule 17(1) of CAT (Procedure) Rules, 1987 were also considered. Relevant part of this judgment is as under:-

“ No application for review shall be entertained unless it is filed within 30 days from the date of receipt of copy of the order sought to be reviewed.”

5. Right of review is available if such an application is filed within the period of limitation. The decision given by the Tribunal, unless reviewed or appealed against, attains finality. If such a power to review is permitted without any limitation then no decision would be final because the decision would be subject to review at any time at the instance of the party feeling adversely affected by the said decision. A party in whose favour a decision has been given cannot monitor the case for all times to come. Therefore, the public policy demands that there should be an end to legal cases.

6. There is no provision in the Administrative Tribunals Act, 1985 to condone the delay beyond the period of thirty days in filing the Review Application. Moreover, it is well settled position by the Apex Court decision **in K. Ajit Babu and others Vs. Union of India and others**

reported in (1997) 6 SCC, 473 that the delay in filing the review application cannot be condoned. The Apex Court in that case observed:-

".....The right of review is possible only on limited grounds, mentioned in Order 47 of these Code of Civil Procedure. Although strictly speaking the Order 47 of the Code of Civil Procedure may not be applicable to the tribunals but the principles contained therein surely have to extended. Otherwise there being no limitation on the power of review it would be an appeal and there would be no certainty of finality of a decision. Besides that, the right of review is available if such an application is filed within the period of limitation. The decision given by the Tribunal, unless reviewed or appealed against, attains finality. If such a power to review is permitted, no decision is final, as the decision would be subject to review at any time at the instance of party feeling adversely affected by the said decision. A party in whose favour a decision has been given can not monitor the case for all times to come. Public policy demands that there should been to law suits and if the view of the tribunal is accepted the proceedings in a case will never come to an end. We, therefore, find that a right of review is available to the aggrieved persons on restricted ground mentioned in Order 47 of the Code of Civil Procedure if filed within the period of limitation."

7. It is therefore, evident that delay has vitiated this review application and delay cannot be condoned by this Tribunal. Accordingly, delay condonation application No. 330/2595/2019 in filing review Application No. 330/00045/2019 is liable to be rejected.

8. It is pertinent to point out that this review application itself is also legally not sustainable for the simple reason that original judgment contains all the relevant arguments advanced on behalf of the applicant. A detailed order containing reasons was passed. Scope of

Reviews is very limited. The Hon'ble Apex Court in the case of **Meera Bhanja vs. Nirmala Kumari Choudhury reported in (1995) 1 SCC 170**, has observed that review proceedings cannot be considered by way of an appeal and have to be strictly construed to the scope and ambit of Order 47 Rule 1 of CPC and review petition is required to be entertained only on the ground of error apparent on the face of record. The Hon'ble Apex Court has also been pleased to observe that while deciding the review, the matter cannot be re-apprised and only typographical error apparent on record can be reviewed.

9. Therefore, the review application is not maintainable on account of delay occurred in filing the same. Accordingly Misc. Application No. 330/2595/2019 for condonation of delay is dismissed. Consequently, Review Application No. 330/00045/2019 is also dismissed. No order as to costs.

(Justice Bharat Bhushan)
Member (J)

Sushil