

**CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD
BENCH, ALLAHABAD**

This the 30th day of January, 2020

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

**Review Application No. 330/00039/2019 in
Original Application No.330/00352/2012**

Divisional Railway Manager, Mughalsarai and others

Applicant

By Advocate: Ms. Shruti Malviya

Versus

Ramesh Kumar s/o late Ramjanam Prasad r/o Goal Bagicha
Police Adda, District- Gaya.

Respondent

By Advocate: Sri Ram Prakash Rai

ORDER

HON'BLE MR. JUSTICE BHARAT BHUSHAN, MEMBER (J)

One Ramesh Kumar had filed an Original Application No. 352/2012 (Ramesh Kumar Vs. Chairman, Railway Board and others) for claiming medical expenses incurred by applicant and ancillary reliefs, which was decided by Hon'ble Sri D.C. Lakha, Member (A) on 30th November, 2012, whereby O.A. was allowed. Operative portion of this order is reproduced below:-

"8. I have given thoughtful consideration to the rival contentions of the parties and perused the entire pleadings. The respondents have themselves admitted that the applicant got injured while going to the office, therefore, the applicant should be deemed to have been injured while on duty, therefore, he is entitled to disability leave. As for the reimbursement of the amount incurred during the treatment in a private

hospital after the respondents themselves having admitted that the applicant was unconscious at the time of accident, there was no question of his being admitted to Railway Hospital. The provision of Medical Attendance as contained in R.B. 's No. 2007/H/6-4/Policy dated 7.8.2008 makes its clear that reimbursement of upto Rs. 2,00,000/- is to be made by the GM/AGM for the treatment got from a private hospital in case of emergency. Consequently, all the grounds taken by the respondents for not acceding to the claim of the applicant have no legs to stand. The O.A. is liable to be allowed. Accordingly, the O.A. is allowed and the respondents are directed to treat the period of sickness as hurt on duty (HOD) ad pay the expenses incurred by the applicant during his treatment. The respondents are further directed to pay the applicant the salary w.e.f. August, 2010 to April, 2011. No order as to costs."

2. This judgment is under challenge in this review application on behalf of respondents.

3. The reviewer has filed this review application with considerable delay. Therefore, a Misc. Civil Application No. 330/02025/2019 has also been filed for condoning the delay in filing the review application.

4. Heard Ms. Shruti Malviya, counsel for reviewer/respondents and Sri Ram Prakash Ram, counsel for opposite party/applicant.

5. The reviewer has claimed that they collected several papers which caused the delay of around 7 years in filing the review application.

6. 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 which are 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."

7. Thus, 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 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.

8. Hon'ble Apex Court in the case of **K. Ajit Babu and others Vs. Union of India and others** reported in 1997(6) SCC 473 has observed that *"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 be 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."*

Therefore, 7 years delay in filing the review application is detrimental to the claim of applicant. Thus, this delay cannot be condoned in view of aforesaid judgment of the Hon'ble Apex Court.

9. 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.

Record reveals that there is no such error apparent on face of record.

10. It is therefore, evident that delay has vitiated this review application and delay cannot be condoned by this Tribunal in view of law laid down by the Hon'ble Apex Court in the case of **K. Ajit Babu (supra)** and by Hon'ble High Court of Andhra Pradesh in case of **G. Narasimha Rao (supra)**. Accordingly, delay condonation application No. 330/02025/2019 in filing review Application No. 330/00039/2019 is rejected. Consequently, Review Application No. 330/00039/2019 also stands dismissed.

(Justice Bharat Bhushan)
Member (J)

HLS/-