

(2) (18)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI.

Regn.No. RA 221/1993 in
OA 2139/1990

Date of decision: 29.07.1993

Shri B.B. Mishra

...Original applicant/respondents in the RA

Versus

U.O.I

...Original respondents/petitioner in the RA

For the Petitioner in the RA

...Mrs. Raj Kumari Chopra, Counsel

For the Respondents in the RA

...None

CORAM:

THE HON'BLE MR. JUSTICE S.K. DHAON, VICE CHAIRMAN
THE HON'BLE MR. B.N. DHOUDIYAL, MEMBER (A)

1. To be referred to the Reporters or not?

JUDGMENT

(of the Bench delivered by Hon'ble Mr. Justice
S.K. Dhaon, Vice Chairman)

This is an application seeking the review of the judgment dated 18.12.1992 passed in OA 2139/1990 passed by a Two - Member Bench of this Tribunal consisting of Hon'ble Mr. P.K. Kartha, Vice-Chairman (as he then was) and one of us (Hon'ble Mr. B.N. Dhoundiyal).

2. The application is accompanied by another application praying therein that the delay in filing of the Review Application may be condoned.

3. A Review Application has to be filed within a period of
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30 days from the date of the receipt of the order. The instant review application was filed on 19.05.1993.

4. The material averments in the application for condoning the delay are these. The judgment dated 18.12.1992 passed by this Tribunal was received by the Government Counsel on 06.01.1993. The Ministry of Health and Family Welfare, the concerned department received the copy of the judgment on 12.01.1993. On 29.01.1993 it was sent to the Department of Personnel and Training for seeking their views as to whether a review or Special Leave Petition(SLP) may be preferred from the judgment. On 12.02.1993, the file was received back from the Department of Personnel & Training. On 25.02.1993 the concerned file was sent to the Ministry of Law and Justice seeking their advice/views as to whether the review application should be preferred or an SLP should be filed from the judgment. On 5.3.1993, the concerned file was forwarded to the Central Agency Section of the Ministry of Law and Justice. On 12.03.1993, the Additional Solicitor-General of India advised that the SLP may be filed simultaneously with the review application. He also advised that the SLP may be brought up for hearing after the disposal of the review application. The Central Agency Section of Law Ministry allotted the concerned file pertaining to the impugned order of the Tribunal to a panelled advocate for drafting the SLP and application for granting a stay. After the receipt of the draft of the SLP, the same was sent to the concerned department for vetting and approval. The SLP was filed on 6.4.1993. Thereafter, the concerned file has been received by the Ministry of Health and Family Welfare. After the receipt of the file, the review application has been drafted and sent to the Government Counsel on 28.04.1993 for vetting. The draft RA along with condonation of delay application were received back on 5.5.1993.

5. We have to see whether satisfactory explanation has been offered for not filing the review application within a period of 30 days from 6.1.1993. No explanation has been offered for the delay between 12.02.1993 and 25.02.1993. It is to be remembered that on the former date the file was received back from the Department of Personnel

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and on the latter date, the file was sent to the Ministry of Law and Justice. It is interesting that the Department of Personnel and Training took 13 days to send the file to the Ministry of Law and Justice. It is to be noted that on 12.03.1993, the Additional Solicitor-General of India advised that an SLP should be filed simultaneously with the review petition. On that day, the period of 30 days from 6.1.1993 had already expired. However, the SLP was filed on 6.4.1993 within time. Apart from saying that after the receipt of the file by the Ministry of Health and Family Welfare, the review application has been drafted on 28.04.93 and sent to the Government Counsel for vetting and on 5.5.93, the file was received back in the Ministry of Health and Family Welfare, no satisfactory explanation has been offered as to why the review application was not filed immediately after 12.03.1993 when the Additional Solicitor-General gave his advice. At any rate, no satisfactory explanation is forthcoming as to why the review application was not filed immediately after 6.4.1993 when the SLP was filed. Lastly, no explanation whatsoever has been offered for the delay between 5.5.1993 and 19.5.1993. The record shows that the review application was prepared and duly verified on 18.05.1993. On the whole, we are satisfied that the respondents acted rather casually in presenting the review application. We are, therefore, not inclined to condone the delay.

6. On merits, it appears that the Tribunal based the judgment under its review on justice and equity. It observed:-

"In our opinion, justice and equity required the applicant to be paid the arrears of pay and allowances as he has actually worked in the C.H.S. during this period....".

It is to be presumed that the learned Members of the Tribunal were aware that they were exercising the writ jurisdiction of the High Court under Article 226 of the Constitution when they invoked the principle of justice and equity. In these circumstances, it cannot be said that the judgment under review suffers from any error apparent on the face of the record.

7. The review application is rejected summarily.

B. N. Dhondiyal
(B.N. DHONDİYĀL)
MEMBER (A)

S.K. Dharon
(S.K. DHAON)
VICE CHAIRMAN