

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI

R.A. NO. 295/92 in
O.A. NO. 973/90

DECIDED ON : September 14, 1992

Mahataria

... Review Applicant

Vs.

Union of India & Another

... Respondents

CORAM : THE HON'BLE MR. P. C. JAIN, MEMBER (A)
THE HON'BLE MR. J. P. SHARMA, MEMBER (J)

O R D E R (By Circulation)

The applicant in O.A. No. 973/90 decided on 22.3.1991 has filed this review application praying for review of the aforesaid judgment in the light of the ratio of the judgment of the Hon'ble Supreme Court in A. R. Antuley's case and declare the applicant as eligible for the limited benefit of pension for the 12 years' service rendered by him before the break illegally imposed upon him in violation of mandatory rules by the respondent — Railways themselves. Reference to A. R. Antuley's case (supra) is with reference to the contention that the aforesaid judgment has been delivered 'Per Incurium'.

2. The judgment was delivered on 22.3.1991. It was sent to the applicant by forwarding letter dated 27.3.1991 which is said to have been received by him some time towards the end of April, 1991. This review application has been filed on 24.12.1991 but because of objection of the Registry, it was re-filed on 3.9.1992. The limitation prescribed in Rule 17 of the Central Administrative Tribunal (Procedure) Rules, 1987 for filing a petition for review is thirty days from the date of receipt of a copy of the order of which the review is sought. Thus, the review application is barred by limitation. The applicant has filed an application for

C.

249 ✓

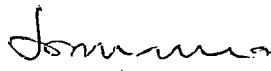
condonation of delay in which it is stated that he was busy settling his other problems on superannuation; that when he consulted his friends about the interpretation of the judgment, the applicant being an illiterate person, decided to file the review application for which also he had to muster up his resources and come to Delhi; and that even though according to the legal opinion, the judgment is delivered 'Per Incurium' and, therefore, does not attract any limitation, he submits this application for condonation of delay as a matter of abundant precaution. There is a specific limitation prescribed in the rules which have statutory force for filing a review application and irrespective of the interpretation of a party to the case to the validity of a judgment, legally it is required to file a review application within the limitation prescribed. It is true that the Tribunal has power to condone the delay involved if sufficient cause is shown to the satisfaction of the Tribunal for the delay involved. In this case, the reasons apart from being vague cannot be deemed to constitute sufficient cause for the considerable delay involved. In the original proceedings the applicant was represented by a counsel and, therefore, that the applicant consulted his friends about the interpretation of the judgment does not appear to be reasonable. In view of the specific provisions of limitation prescribed for the purpose, the contention that no limitation is attracted in filing a review application for review of the judgment which the applicant considered as 'per incurium', cannot be upheld. Thus, the application for condonation of delay cannot be allowed.

3. If a party to the case considers the judgment delivered by the Tribunal as per incurium, it has to go to the appropriate forum for having it declared as such and set it aside.

3015

Provisions of Order 47 Rule 1 of the Code of Civil Procedure are applicable in terms of Section 22(3)(f) of the Administrative Tribunals Act, 1985 and none of the grounds mentioned in the aforesaid provision of the CPC is attracted in this case. Further, a Full Bench of the Tribunal in the case of Union of India & Ors. vs. Ganesh Khalashi & Ors. (O.A.288/88 and 61/89 decided on 5.3.1990 — Full Bench Judgments (CAT) Vol.II (1989-1991) 229) had held in para 26 of the judgment that the Tribunal has no inherent powers, unlike that of a Civil Court under Section 151 of the Code of Civil Procedure. It was further held that though the writ jurisdiction of the High Court under Article 226 of the Constitution has been transferred to this Tribunal, the power of the High Courts under Article 227 of the Constitution has not been vested in this Tribunal under the Act. It was further held that the Tribunal being a creature of the Act, it has to function within the confines of the provisions thereof.

4. In the light of the foregoing discussion, this review application has to be dismissed on account of bar of limitation as well as on merits. We order accordingly, by circulation.


(J. P. SHARMA)
MEMBER (J)


(P. C. JAIN)
MEMBER (A)