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CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH
REVIEW APPLICATION NO.44/99 IN
ORIGINAL APPLICATION NO:520/97

CORAM:HON'BLE SHRI S.L.JAIN, MEMBER(J)

M.N.Tripathi,
Sri Raj Managal Tiwari,
Resident of B/15 Raghuvir Nagazr,
Deoria.

... Applicant

v/s.

Union of India through General Manager,
Eastern Railway, Calcutta & Ors.

... Respondents.

(ORDER)

This is a review application by the applicant in O.A.520/97 seeking review of an order passed on 29/10/98 deciding the case finally.

2. The brief facts as alleged by the applicant are that the matter was heard in absence of his counsel on 12/10/98, as his counsel was ill hence he could not attend the Tribunal, he moved the Tribunal by filing an application for recalling the order dated 29/10/98 on 3/12/98 which was dismissed on 23/7/99, thereafter he filed the review application on 2/8/99. The Registry noticed the the defect of delay in filing the review application, hence claiming to be the review application well in time, he filed an application (M.P.5504/99) on 17/11/99 seeking delay condonation.

3. Before I proceed to consider the review application, it is necessary to consider the M.P.5504/99.

4. In view of Rule 17 of the Central Administrative Tribunal(Procedure) Rules 1987, a review application is to be filed within thirty days from the date of the order of which the

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review is sought. Certainly, the applicant has not filed the review application well in time and his contention is that he filed an application for recalling the order. Therefore, the delay be condoned as it is the continuation of the proceedings.

5. The question is whether the applicant has acted by filing the application for recalling the order with due care and caution. In view of Rule 15(2) proviso of the Central Administrative Tribunal(Procedure) Rules 1987, a review lies when the matter is disposed of on merits. The said provision is ignored and an application for recalling the order is filed. It is not a case where there are conflicting judgements laying down different proposition of law by different Benches, hence the applicant could not take proper steps. It is a case where the said provision is incorporated in the Rules itself. If the counsel practicing in High Court and Tribunals is not aware of the same or does not follow it, it cannot be said that he acted with due care and caution. Hence it is held that the applicant did not act with due care and caution. Therefore, the delay in filing the review application cannot be condoned. M.P.5504/99 deserves to be dismissed and is dismissed accordingly.

6. In view of the fact that the review application is barred by time, it is also liable to be rejected and is rejected accordingly.

abp

S.L.JAIN
(S.L.JAIN)
MEMBER(J)
12/1/2000