

CENTRAL ADMINISTRATIVE TRIBUNAL

ALLAHABAD BENCH

THIS THE 1ST DAY OF APRIL, 2004

Review Application No.114 of 2003

In

Original Application No.1190 of 2003

CORAM

HON.MR.JUSTICE S.R.SINGH,V.C.

HON.MR.D.R.TIWARI, MEMBER(A)

Umrao Chaubey, a/a 59 years,
Son of Late Jagannath Chaubey,
R/o Village Tenauti, P.O.
Sakaldeha, district Varanasi.

.. Petitioner

Versus

1. Union of India through the Chairman Standing Committee E.S.I.Corporation, Kotla Marg, New Delhi- 1
2. The Director General, E.S.I.C, Headquarters Office, Kotla Marg, New Delhi-1
3. The Regional Director, E.S.I.C, Administrative Branch, Deep Bhawan, Sarvodaya Nagar, Kanpur Nagar.

.. Respondents

O R D E R

JUSTICE S.R.SINGH,V.C.

Heard Col.Sri R.A.Pandey learned counsel appearing for the petitioner and Shri P.K.Pandey learned counsel representing the respondents.

OA No.1190/03 was instituted against an order of reversion dated 17.1.1981. The OA came to be dismissed by order dated 9.10.03 on two grounds: Firstly, that impugned order against which the OA was instituted was not passed during the period of 3

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years immediately preceding the date on which the jurisdiction, powers and authority of the Tribunal became exercisable under the Administrative Tribunals Act 1985 in respect of the matter to which such order was relatable; and secondly, that earlier OA No.909/02 preferred by the applicant has been rejected by the Tribunal vide order dated 6.1.03 and the review petition too was rejected on 29.5.03 which orders came to be upheld by the High court in writ petition No.81293/03 which came to be dismissed on 24.7.03.

Col.R.A.Pandey, counsel for the applicant, has urged that the Tribunal was not justified in rejecting the OA as barred by time without adverting to the provisions of sub section(3) of Section 21 of the Administrative Tribunals Act 1985 which provides that notwithstanding anything contained in sub-section(1) or sub-section(2), an application may be admitted after the period of one year specified in clause(a) or clause(b) of sub-section(1) or, as the case may be, the period of six months specified in sub-section (2), if the applicant satisfies the Tribunal that he had sufficient cause for not making the application within such period.

We are of the view that no ground of review is made out. The facts and circumstances set out by the applicant do not disclose sufficient cause for not filing the OA within the period of six months specified in sub-section(2) of Section 21 of the Act. That apart sub-section(3) of Section 21 is not attracted for the order impugned in the OA was not passed during the period of three years immediately preceding a date on which the jurisdiction, powers

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and authority of the Tribunal became exercisable under the Act. As pointed out herein above, the order under challenge in the OA was not made at any time during the period of 3 years immediately preceding the date on which the jurisdiction, power and authority etc of the Tribunal became exercisable. The Tribunal was established on 1.11.1985, whereas the order under challenge in the OA was passed on 17.1.1981 i.e. not during the period of 3 years immediately preceding the establishment of the Tribunal. In the circumstances, therefore, the Tribunal was justified in dismissing the OA as not maintainable. In the circumstances, it is not necessary to go into the question as to effect of dismissal of the earlier OA No.909/02. It is well settled that the OA is not an appeal in disguise and there being no manifest error of law, the review petition fails and is dismissed. No order as to costs.

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MEMBER(A)

Raj

VICE CHAIRMAN

Dated: 01.4.2004

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