

OPEN COURT
CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH
ALLAHABAD

Allahabad this the 10th day of November 2010

PRESENT:

HON'BLE MR. JUSTICE S.C. SHARMA, MEMBER-J

HON'BLE MRS. MANJULIKA GAUTAM, MEMBER-A

R.A.29/2006 in Original Application No.1189 of 2003

Union of India, the Secretary,
 Ministry of Communications,
 Department of Posts,
 Govt, of India, Dak Bhawan,
 Sansad Marg, New Delhi,
 through Superintendent of Post Offices,
 Basti Division-Basti. Review Applicant

(By Advocate Shri Sourabh Srivastava)

Vs.

Ram Ujagir Mishra, S/o Late Shiv Murat Mishra,
 R/o Village Diktauli,
 Post Orwara, District Basti. Respondents

(By Advocate Shri A.K. Srivastava)

HON'BLE MR. JUSTICE S.C. SHARMA, MEMBER-J

Instant Review Application has been ⁱⁿ constituted for the
 review of the order dated 30.9.2004 passed in O.A. 503/03. We
 have heard Mr. A. K. Srivastava for the Original Applicant and Shri
 Dharmendra Tiwari holding brief of Shri Sourabh Srivastava for the
 Review Applicant and perused the entire facts of the case. Mr. A.
 K. Srivastava advocate for the Original Petitioner raised a
 preliminary objection regarding maintainability of the R.A. and he
 argued that the R.A. is highly belated and there is no provision in

1189 ^{Constituted} ^{Order dated 26.11.2010}
 26.11.10.
 In my opinion
 26.11.2010

S.C. Sharma

point out that the O.A. is barred by limitation and the order passed for issue of notice to the respondents, and under these circumstances, we are of the opinion that the respondents has every right to agitate the point of limitation irrespective of the fact that the order has been passed to issue of notice and this argument is not tenable.

4. We have to consider the position of law for deciding the preliminary objection of the learned counsel for the respondents in O.P. and learned counsel cited Rule 17 of the CAT Procedure Rules 1987. Rule 17 provides as follows:

"No application for review shall be entertained unless it is filed within thirty days from the date of receipt of copy of the order sought to be reviewed."

In view of the above provision, the review application must be moved within a period of thirty days. We have to consider this position of law that whether this Tribunal have any jurisdiction and power to condone the delay, because, in Rule 17 itself nothing has been provided that the Tribunal has got jurisdiction to condone the delay explained by alleging and demonstrating the grounds. The grounds mentioned in the application for condonation of delay arises, if the Tribunal has got any discretion in order to condone delay. It is the definite contention of the learned counsel for the Original Petitioner that as there is no provision in Rule 17 of the CAT Procedure Rules to condone the delay. Learned counsel Shri

Surinder

A.K. Srivastava also argued that with the aid and assistance of Section 21(2) of the CAT Act, delay cannot be condoned and in support of his argument, learned counsel cited a judgment of the Full Bench of the Hon'ble High Court of Andhra Pradesh in W.P.No.21734 of 1998, reported in 2005 (2) ALT page 469

G.Narasimha Rao Vs. Regional Joint Director of School

Education and Ors. The case relates to the matter of CAT. Para 14 of the judgement is relevant and it will be material to reproduce para 14 of the judgement of the Hon'ble High Court of Andhra Pradesh.

“In the view we have taken, we answer the reference holding that the Administrative Tribunals Act and the Rules made thereunder are impliedly infer 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.”

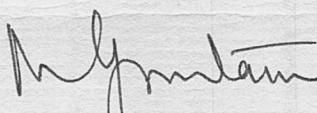
5. Hence, in view of the Full Bench judgement of the Hon'ble High Court of Andhra Pradesh, with the aid and assistance of Sub-Section (3) of Section 21 of the CAT Act or Section 29(2) of the Limitation Act, delay cannot be condoned. Under these circumstances, we have no option except to decide that this Tribunal has got no jurisdiction to condone the delay in moving the application for review. In all the circumstances, it is to be moved within a period of thirty days from the date of judgement. There appears nothing abnormal in making such a provision. In the Arbitration and Consultation Act 1996, there is a specific provision

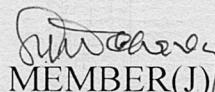
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regarding limitation and there are several judgements of the Hon'ble Supreme Court in connection with the limitation under the Act that delay cannot be condoned in the matter of Arbitration Act. It appears that the intention of Legislature ^{was} ~~was~~ also to the fact in relation to the case of the CAT not to invoke the provisions of Limitation Act for condonation of delay. It is a self contained provision regarding limitation for review, and there is a specific judgement of the Hon'ble High Court of Andhra Pradesh. Learned counsel for the applicant argued that there is a judgment of the CAT, Allahabad Bench regarding condonation of delay. But, according to the law of the land, i.e. the judgement of the Hon'ble High Court and according to the law of precedence the judgement of the Hon'ble High Court, ^{Andhra Pradesh} ~~Allahabad~~ shall prevail.

6. For the reasons mentioned above, we are of the opinion that the R.A. is barred by limitation. It has not been moved within one month from the date of the order rather it was moved beyond one year and we got no jurisdiction to condone the delay. The R.A. is liable to be dismissed.

7. Review Application is dismissed accordingly.


MEMBER(A)


MEMBER(J)