

RESERVED

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH : ALLAHABAD

CIVIL MISC. CONTEMPT PETITION NO.47 OF 2006
IN
ORIGINAL APPLICATION NO.917 OF 2004

ALLAHABAD, THIS THE 16th DAY OF August 2007

HON'BLE MR. ASHOK S. KARAMADI, MEMBER-J
HON'BLE MR. K. S. MENON, MEMBER-A

Chandi Lal (retired Carpenter of Allahabad
Postal Division, Office of the Sr. Supdt.
Of Post Offices Allahabad),
Resident of House No.154 Naya Purwa Kareili,
Post G.T.B. Nagar,
Allahabad-211016.

. Applicant

By Advocate : Shri S. Narain & Shri L. M. Singh

Versus

1. Smt. Vijai Lakshmi Seth,
Chief Post Master General,
U.P. Circle Lucknow-226001.
2. Shri Primal Sinha,
Son of Sri P.N.P. Singh, Sr. Supdt. Of
Post Offices, Allahabad.
3. Shri R. S. Misra,
Sr. Supdt. Of Post Offices,
Allahabad.

.Contemnor/Respondents

By Advocate : Shri Saumitra Singh.

O R D E R

HON'BLE MR. ASHOK S. KARAMADI, MEMBER-J

This application is filed to recall and set aside
the order dated 05.07.2007 passed in contempt
Application No.47 of 2006, by the said order the
contempt petition is dismissed.

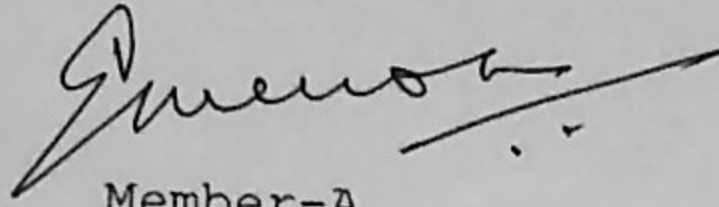
2. This Civil Misc. Restoration application no.1521
of 2007 was filed on 19.07.2007 without mentioning any

provision of law under which this application is filed, in which it is stated that the fault caused on the part of the counsel for the applicant was not deliberate but due to some unavoidable circumstances which were beyond control to him and prayed for to recall and set aside the order dated 05.07.2007.

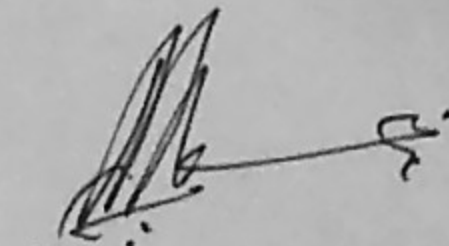
3. We have heard the learned counsel for the applicant and the respondents, perused the pleadings and the materials on record. The learned counsel for the applicant relying upon on Section 22 of the Administrative Tribunals Act 1985 submits that the Tribunal has got power to regularate its own procedure by exercising the power in the interest of justice. This contention of the learned counsel cannot be accepted as Section 22 of the Administrative Tribunals Act prescribes the procedure and power if Tribunals, does not contain specifically with regard to any inherent powers to be exercised, on the other hand in the absence of any inherent power or power of recall or review against the order or decision is not contemplated under the Contempt of Courts Act 1971 and as such this application filed by the applicant to recall the order is not maintainable. The learned counsel for the applicant also relies upon Rule 6,7 of Contempt of Courts (CAT) Rules 1992 which provides for taking cognizance and initiation of proceedings, we do not find it just and proper to consider the same in view of the reasons given earlier as the application itself is not maintainable. The learned counsel for

the applicant submits that the dismissal of the contempt petition for non prosecution for the default on the part of the applicant's counsel is not proper as the contempt proceedings are the proceedings between the court and the parties before it as earlier court has taken issuance of notice to the respondents should not have dismiss the contempt application for non prosecution and further submitted that by continuing the proceedings in the absence of applicant or the applicant's counsel will have no effect in the contempt proceedings, in the interest of justice even though there is no specific roll of the applicant is concerned in the contempt proceedings, hence sought for the prayer as aforesaid. There is no provision under the Contempt of Court Act to recall the order passed, having regard to the nature and circumstances of the case the court will look into the matter and exercise its discretion what is just and proper in the proceedings, the power of exercise is always keeping in mind to do the justice in a given case. In the instant case on the application notice was issued, and the respondents appeared the counter affidavit was filed, having regard to the nature and circumstances of the case the order came to be passed dismissing the contempt petition by exercise of discretion power in a given case. Under these circumstances we do not find any justifiable and acceptable reasons to recall the order dated 05.07.2007 as the application itself is not maintainable in the contempt proceedings and restore the contempt application. In view of these

reasons the contention of the learned counsel for the applicant cannot be accepted and the argument advanced on the basis of the provisions of the contempt of the courts act and the Administrative Tribunals Act are of no assistance to take a different view than the one which we have taken and accordingly rejecting the contentions this application no.1521 of 2007 is rejected.



Member-A



Member-J

/ns/