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M.A./374/90
with
M.A./352/90
in
R.A./St.226/90
in
O.A./564/88

Coram : Hon'ble Mr.P.H.Trivedi : Vice Chairman
Hon'ble Mr.R.C.Bhatt : Judicial Member

08/02/1991

Mr.N.S.Shevde and Mr.K.K.Shah learned advocates for the petitioners and the respondents present. We have heard the petitions for condonation of delay along with review petitions. Learned advocate for the respondents has placed before us a copy of the Supreme Court order dismissing the special leave petitions. Learned advocate for the petitioners has taken us through the sequence of stages in which copies of judgments were obtained returned for correction and further obtained to show that there was no delay. The judgments sought to be reviewed are dated 19.3.1990. The judgment in one of the cases was earlier made available, but admittedly in each case certified copy of judgment was not furnished. Learned advocate's plea is that it is obligatory that in each and every case the copy of judgment is furnished without which remedy of appeal, cannot be taken recourse to. However, on 3.4.1990, a copy of the judgment was supplied in all cases and as there was some correction required in them, according to the learned advocate, they were re-submitted and certified copies were finally supplied on 25.7.1990. Even before that date on 4.6.1990, applications for review were made. There was a vacation period between 9.5.1990 to 1.6.1990, and according to learned advocate,

for this period benefit is required to be given. All these circumstances justify according to him to hold that either there is no delay or that the delay deserves to be condoned.

2. After considering the submissions made by the learned advocate, we do not find that this plea has strong merit. The question of limitation so far as the government machinery is concerned, has to be construed with reference to its resources in obtaining with due diligence copies of the judgments. In the cases in question petitioners have been represented by the advocates and one judgment in a group of cases has been duly obtained. There are no rules of the procedure so far as this Tribunal is concerned allowing the benefit for the vacation period of delay for the period so far as filing of applications is concerned and the Registry is available even during vacation period for filing application. So far as obtaining the copies from the Registry there is an equal obligation on the parties to show the diligence to obtain the copies. From the date of the judgment to the date of filing the applications, we are unable to hold that the respondents have fully met the requirement of strictly proving, that the delay is adequately explained or justified.

3. We however, do not wish to decide these petitions solely on the ground of the bar of limitation. Review petition are required to be first decided upon regarding whether they should be heard or not and this is allowed to be done by circulation according to the rules applicable. On perusal of the review petitions and taking note that the respondent authorities have already sought the remedy of preferring in the Suprme Court, S.L.P., which has been rejected by Supreme Court, we do not find that

in these cases for review there is any merit for which the cases need to be heard. It is, therefore, held that the review petitions do not merit to be heard and the question of condonation of delay, becomes superfluous. Even if any merit were found for condonation of delay, we find no merit in the review petitions. For the above reasons we do not find any merit in the petitions and they accordingly stand rejected. Applications for stay also rejected for the said reasons.

R.C.Bhatt
(R.C.Bhatt)
Judicial Member

P.H.Trivedi
(P.H. Trivedi)
Vice Chairman

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