

(12)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
AHMEDABAD BENCH

R.A.No. 5 OF 1993
with
M.A.No. 176 OF 1993
O.A. No. in 171/1989.
~~P.A. No.~~

DATE OF DECISION 12-7-93

Union of India & Ors.

Petitioner s
(Orig. Respondents)

Mr. Akil Kureshi,

Advocate for the Petitioner(s)

Versus

Chandradeo Yadav,

Respondent
(Orig. Applicant)
Advocate for the Respondent(s)

CORAM :

The Hon'ble Mr. N.V. Krishnan, Vice Chairman.

The Hon'ble Mr. R.C. Bhatt, Judicial Member.

1. Whether Reporters of local papers may be allowed to see the Judgement ? ✓
2. To be referred to the Reporter or not ? ✗
3. Whether their Lordships wish to see the fair copy of the Judgement ? ✗
4. Whether it needs to be circulated to other Benches of the Tribunal ? ✗

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1. Union of India
(through the under Secretary to
Government of India,
Parliament Street,
New Delhi).

2. T.D.E.
Office of the T.D.E.
Genda Agad Road,
Junagadh.

.... Applicants.
(Orig. Respondents)

(Advocate: Mr. Akil Kureshi)

Versus.

Chandradeo Yadav
Old Postal Colony,
Quarter No. P-11
Gandhigram,
Junagadh.

.... Respondent.
(Orig. Applicant)

ORDER

R.A.No. 5 OF 1993
with
M.A.No. 176 OF 1993
in
O.A.No. 171 OF 1989

Date: 12-7-93

Decision by circulation.

Per: Hon'ble Mr. R.C. Bhatt, Judicial Member.

This review application has been filed by the original respondents for reviewing the judgment of this Tribunal dated 14th September, 1992 in O.A.No. 171/89. This review application is filed on 7th December, 1992. It is possible to dispose of this review application by circulation. The certified copy of the judgment of O.A. 171/89 produced by the applicant along with this review application shows that the certified copy was ready on 22nd September, 1992 for delivery. Therefore, as per

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Rule 17 of Central Administrative Tribunal (Procedure) Rules 1987, no application for review shall be entertained unless it is filed within 30 days from the date of receipt of the copy of order sought to be reviewed. The review application has been filed after the delay of 46 days after limitation was over. There ^{is} ~~was~~ no averment made in the review application ^{as to} ~~about the~~ why there was delay in filing this review application nor ~~any~~ ^{is} delay ~~was~~ explained. The office had raised objection on scrutiny that there was a delay of 46 days in filing the application. The Registry ^{not} ~~also~~ shows that inspite of two reminders sent to the learned advocate for the original respondents about the defects to remove the objection, the objections were not removed. However, the respondents ultimately filed an application for condonation of delay on 26th March, 1993 in which it is averred that the copy of the judgment was ready for delivery on 22nd September, 1992 and the ^{same} ~~was~~ collected on behalf of the applicant by the learned Additional Central Government Standing Counsel and it was forwarded to the concerned original respondents i.e., the T.D.E. Junagadh and it is reached the said office on 6th October, 1992. It is further averred in the M.A that, thereafter, the copy was forwarded to the D.O.T., New Delhi on 12th October, 1992 for appropriate decision with respect to the same and then the D.D.T. New Delhi decided to file a review

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application in the said matter and the said decision was communicated to the concerned respondents vide letter dated 5th November, 1992 which was received by the said office a few days thereafter. It is further averred in the M.A that the Additional Central Govt. Standing Counsel was, thereafter, requested vide letter dated 12th November, 1992 to file a review application in the said matter that the review application was drafted and forwarded to the original respondent on 2nd December, 1992 and after completing the necessary formalities including filing of affidavit the same was filed before this Tribunal on 7th December, 1992. In the instant case, the original respondents ought to have prayed for condonation of delay with the affidavit on the date on which the review application was filed before this Tribunal, but that was not done and inspite of the two reminders sent to the original respondents, the objection regarding limitation was not removed. The Government, may take some more time to file review application and in appropriate case, the delay is condoned but in this case it can not be said that the original respondents were not knowing that they had to explain the delay in filing the review application when they filed review application but there was no averment in the entire review application sworn on affidavit about delay of 46 days nor was any explanation showing sufficient cause for condonation

of delay. More over as mentioned above, M.A.176/93 for condonation of delay was filed on 26th March, 1993 i.e., after the period of $3\frac{1}{2}$ months after the review application was filed and after two reminders were sent to the original respondents to remove the objection. Thus there was further delay of about $3\frac{1}{2}$ months in filing application for condonation of delay. In my view, therefore, this is not a fit case in which the delay should be condoned. The application for condonation of delay i.e., M.A. 176/93 is filed on 26th March, 1993 which was also originally under objection and then the objection was removed. Looking to the conduct of the respondents this is not a case where sufficient cause is established to the condonation of delay in filing the review application. The respondents have annexed the copy of the order dated 8th May, 1992 passed by C.A.T Hyderabad Bench in R.A. 56/92 in O.A. 803/90 where the said Tribunal had condoned the delay. It is not known what were the grounds justifying the delay in that matter or which were the explanation given in that R.A and when the M.A 510/92 was filed in that matter before the C.A.T Hyderabad Bench for condonation of delay. However, looking to the conduct of the original respondents in this case in filing R.A after limitation period was over and filing M.A. after $3\frac{1}{2}$ months for condonation of delay, and examining the contents of the same,

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I do not find it as sufficient cause to condone the delay and hence M.A. 176/93 for condonation of delay is rejected and hence the R.A.No.5/93 does not survive and the same is also rejected.

(R.C.Bhatt)
Member (J)

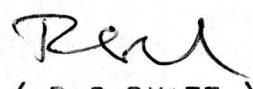
Hon'ble Shri NV Krishnan, V.C.

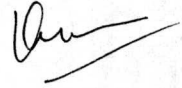
I agree with my learned brother's decision.


(N.V.KRISHNAN)
Vice Chairman(A)

Orders of the Bench

For the reasons given above, M.A.176/93 is dismissed and R.A.No.5/93 is rejected.


(R.C.BHATT)
Member (J).


(N.V.KRISHNAN)
Vice Chairman(A)

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Date	Office Report	Order
22-3-1994		<p><u>M.A. 648/93 in O.A. 171/89</u></p> <p>The respondents i.e. the applicant in O.A. has made grievance that his increments are not released and he is made to stagnate at the basic salary of Rs. 11,00/-p.m. for a long time because of the pendency of the inquiry in question. The applicants i.e. the Union of India and Telecom District Engineer, are directed to disclose on affidavit latest by 5-4-1994 whether it is correct that the applicant has been stagnating at the basic salary of Rs. 11,00/- per month and, if so, since when and why.</p> <p>Call on 5-4-1994</p> <div data-bbox="767 1416 1066 1486"><p>(K. Ramamoorthy) Member (A)</p></div> <div data-bbox="1262 1434 1497 1505"><p>(N.B. Patel) Vice Chairman</p></div> <p>*AS.</p> <p>At the joint request of the learned advocates, adjourned to 25.4.1994.</p> <div data-bbox="767 1799 1046 1869"><p>(K. Ramamoorthy) Member (A)</p></div> <div data-bbox="1238 1807 1422 1877"><p>(N.B. Patel) Vice Chairman</p></div> <p>ait.</p>
05.4.1994.		

25-4-1994

*Mr. Kureshi has been
final appearance memo.*

Rejoinder filed by Mr. Kureshi taken on record. At the joint request of learned advocates, adjourned to 9-5-1994, as there is possibility of amicable settlement.

R
(K. Ramamoorthy)
Member (A)

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(N.B. Patel)
Vice Chairman.

*AS.

9-5-94

Mr. R.V. Sampat not present. Adjourned to 10-6-1994.

R
(K. Ramamoorthy)
Member (A)

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(N.B. Patel)
Vice Chairman.

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10-6-94

Adjourned to 12-7-94 at the request of Mr. Kureshi, as he is awaiting instructions regarding the suggestion for settlement.

R
(K. Ramamoorthy)
Member (A)

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(N.B. Patel)
Vice Chairman.

*AS.

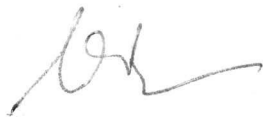
Office Report

ORDER

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12-7-94

Applicant and Mr. Sampat are not present.
At the request of Mr. Akil Kureshi, adjourned to
9-8-1994, as there is a possibility of settlement.



(V. Radhakrishnan)
Member (A)

(N.B. Patel)
Vice Chairman

vtc.

As per order passed in O.A. 96/94, ~~therefore~~

9-8-94

this M.A. may be heard along with O.A. 96/94.



(V. Radhakrishnan)
Member (A)

(N.B. Patel)
Vice Chairman

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CA/42/92 in OA/171/89

DATE	OFFICE REPORT	ORDERS.
21/4/93		<p>None for the applicant. C.A. Dismissed Oral order dictated in open court.</p> <p>Res (R.C. Bhatt) Member (J)</p>